111-701

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1883.

No. 270.

GEORGE HAGAR, Appellant,

vs.

RECLAMATION DISTRICT No. 108.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FILED AUGUST 2, 1881.

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GEORGE HAGAR, APPELLANT,

vs.

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Bill of Complaint.

1 In the District Court of the Tenth Judicial District, in and for the County of Colusa, State of California.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Plaintiff,
vs.
GEORGE HAGAR, Defendant.
} Complaint.

Reclamation District No. 108, by Jackson Hatch, district attorney of Colusa county, plaintiff, complains of George Hagar, defendant, and for cause of action allege:

I.

That at the time of the commencement of this action, Jackson Hatch was, and is now, the district attorney of the county of Colusa, State of California, and that the same is prosecuted by him,
2 and under his direction as such district attorney, in pursuance of section 3466 of the Political Code.

II.

That on the 28th day of September, 1870, an order and determination was duly made and given by the Board of Supervisors of Yolo county, State of California, whereby they approved the petition for the formation of that certain Reclamation District, situate, and being in the counties of Yolo and Colusa, in said State, which district, after such approval, was duly numbered by the register of the State land office, district number one hundred and eight, and said approval of the Board of Supervisions of Yolo county was endorsed on said petition, and signed by the president, and attested by the clerk of said board.

III.

That on the 28th day of September, 1870, A. H. Rose,
3 Louis A. Garnett, and Charles F. Reed, were duly appointed, ever since have been, and are now the trustees of said district number 108, and have acted as such trustees in the management of the business and affairs of said district.

IV.

That on the 28th day of September, 1870, the said trustees reported to the Board of Supervisors of Yolo and Colusa counties plans of the work intended for the reclamation of the lands of said District and the estimates of its cost, together with estimates of the incidental expenses of superintendence, repairs, etc.

V.

That on the 5th day of October, 1875, the trustees of said District presented to the Board of Supervisors of Yolo county a statement, showing the work done in said District No. 108 and its cost, and

that the original assessment levied on the lands of said District was insufficient to provide for the complete reclamation of the
4 lands therein, and asking the said Board to appoint commissioners to levy an assessment on the lands of said District for the sum of one hundred and ninety-two thousand and forty-six ($192,046) dollars, U. S. gold coin; and thereupon, on the said fifth day of October, 1875, the Board of Supervisors of Yolo county duly made an order appointing William Minis, John M. Kelly, and Moses Stinchfield, commissioners in said District, and directing them to assess the amount of one hundred and ninety-two thousand and forty-six ($192,046) dollars, U. S. gold coin, as a charge on the lands within said District, in the manner provided by law.

VI.

That in pursuance of said order the said commissioners duly viewed the lands in said District, and assessed upon them the amount of one hundred and ninety-two thousand and forty-
5 six ($192,046), dollars in proportion to the whole expense and to the benefits to result from the work of reclamation therein, estimated in gold coin of the United States.

The said commissioners made a list of the charges assessed upon the lands of said district, containing a description by legal subdivisions of each tract assessed, the number of acres in each of said tracts, the names of the owners of each of said tracts, if known, and if unknown, then such fact, and the amount of the charge assessed against each of said tracts; and the said commissioners filed the original of said list on the third day of February, 1877, in the office of the treasurer of Yolo county, and filed on the fifth day of February, 1877, a copy of said list, duly certified by themselves in the office of the treasurer of Colusa county.

VII.

That the said list remained in the office of the treasurer of Colusa county for thirty days and such longer time as ordered by
6 the Board of Trustees of said district, and thereafter on the second day of April, 1877, the said list was returned to the district of Colusa county.

VIII.

That the following described tracts of land are included in said reclamation district No. 108, are situated in Colusa county, and are assessed on the said list to George Hagar, the defendant, as the owner thereof, for the following amounts, to wit:

The west ½ and southeast ¼ of section two in township thirteen, north, range one east, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314.64) dollars.

The north ½, southeast ¼, and east ½ of southwest ¼ of section three, township thirteen north, range one, east containing five hun-

dred and fifty-nine $\frac{20}{100}$ acres, for the sum of fifteen hundred and thirty-one $\frac{56}{100}$ ($1,531.56) dollars.

7 The east $\frac{1}{2}$ and east $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of section ten, township thirteen north, range one east, containing four hundred acres, for the sum of one thousand and ninety-five $\frac{54}{100}$ ($1,095.54) dollars.

The west $\frac{1}{2}$, northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section eleven, township thirteen north, range one east, containing five hundred and sixty acres, for the sum of fifteen hundred and thirty-three $\frac{75}{100}$ ($1,533 $\frac{75}{100}$) dollars.

The northwest $\frac{1}{4}$ of section fourteen, township thirteen north, range one east, containing one hundred and sixty acres, for the sum of four hundred and thirty-eight $\frac{21}{100}$ ($438 $\frac{21}{100}$) dollars.

The whole of section fifteen, township thirteen, range one east, containing six hundred and forty acres, for the sum of seventeen hundred and fifty-two $\frac{86}{100}$ ($1,752 $\frac{86}{100}$) dollars.

The east $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section sixteen, contain-

8 ing eighty acres, for the sum of two hundred and nineteen $\frac{11}{100}$ (219 $\frac{11}{100}$) dollars. The east $\frac{1}{2}$ of section twenty-one, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

The west $\frac{1}{2}$ of the northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section twenty-two, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314 $\frac{64}{100}$) dollars.

The west $\frac{1}{2}$, west $\frac{1}{2}$ of southeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the northeast $\frac{1}{4}$ of section twenty-seven, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314 $\frac{74}{100}$) dollars.

The east $\frac{1}{2}$ of section twenty-eight, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

The east $\frac{1}{2}$ of section thirty-three, containing three hun-

9 dred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{110}$) dollars.

The west $\frac{1}{2}$ of section thirty-four, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

All of the foregoing tracts of land being sections and parts of sections of township thirteen north, range one east, Mount Diablo base and meridian, according to the United States system of surveys.

IX.

That no part of the charges on said tracts of land, or either of them, has been paid, but the same are delinquent, and the said several charges are a lien on the said respective tracts of land on which they are assessed.

Wherefore plaintiff prays judgment against the defendant that

the said several charges above stated, be decreed and ad-
10 judged a lien upon the said respective tracts of land on which they are assessed, as hereinbefore stated, and that for the purpose of enforcing said lien an order or decree be made directing the sale of the said several tracts of land to satisfy the charges against them, respectively, with legal interest thereon, from the second day of April, 1877, and that such sale be made for gold coin of the United States as provided by law.

JACKSON HATCH,
Dist. Att'y, Colusa County.
WM. H. L. BARNES,
And F. L. HATCH, *Of Counsel.*

STATE OF CALIFORNIA, } ss:
County of Colusa, }

A. H. Rose, being first duly sworn deposes and says, that he is one of the trustees of Reclamation District, No. 108; that
11 he has heard the foregoing complaint read and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

A. H. ROSE.

Subscribed and sworn to before me, this 1st day of August, A. D. 1877.

[L. S.] J. B. DE JAMOTT,
Notary Public, Colusa Co., Cal.

Endorsed: Filed August 1st, 1877. S. M. Bishop, clerk, by W. H. Miles, deputy.

In this action the defendant having been regularly served with process, as appears by the papers on file herein, and the legal delay for answering having expired, and no answer or demurer
12 having been filed, the default of the said defendant is hereby entered according to law.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, this 13th day of Aug., 1877.

[SEAL.] S. M. BISHOP, *Clerk.*
By W. H. MILLS, *Deputy.*

13 In the District Court of the Tenth Judicial District of the State of California, in and for the County of Colusa.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Plaintiff,

vs.

GEORGE HAGER, Defendant.

Action brought in the district court of the tenth judicial district of the State of California, in and for the county of Colusa, and the complaint filed in said county of Colusa, in the office of the clerk of said district court.

~~Summons.~~

The people of the State of California send greeting to George Hagar, defendant:

You are hereby required to appear in an action brought against you by the above-named plaintiff in the district court of the tenth judicial district of the State of California, in and for the
14 county of Colusa, and to answer the complaint filed therein, within ten days (exclusive of the day of service) after the service on you of this summons, if served within this county; or if served out of this county, but in this district, within twenty days, otherwise, within forty days, or judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought to recover the sum of fourteen thousand and twenty and $\frac{67}{100}$ dollars, gold coin of the United States, with legal interest thereon from the second day of April, 1877, being the amount assessed against you in Reclamation District No. 108, as follows, upon the following tracts of land, to wit:

The west $\frac{1}{2}$ and southeast $\frac{1}{4}$ of section two, in township thirteen north, range one east, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314$\frac{64}{100}$) dollars.

The north $\frac{1}{2}$, southeast $\frac{1}{4}$, and east $\frac{1}{2}$ of southeast $\frac{1}{4}$ of section
15 three, township thirteen north, range one east, containing five hundred and fifty-nine $\frac{20}{100}$ acres, for the sum of fifteen hundred and thirty-one $\frac{56}{100}$ ($1,531$\frac{56}{100}$) dollars.

The east $\frac{1}{2}$ and east $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of section ten, township thirteen north, range one east, containing four hundred acres, for the sum of one thousand and ninety-five $\frac{40}{100}$ ($1,095 $\frac{54}{100}$) dollars.

The west $\frac{1}{2}$, northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section eleven, township thirteen north, range one east, containing five hundred and sixty acres, for the sum of fifteen hundred and thirty-three $\frac{75}{100}$ ($1,533 $\frac{75}{100}$) dollars.

The northwest $\frac{1}{4}$ of section fourteen, township thirteen north, range one east, containing one hundred and sixty acres, for the sum of four hundred and thirty-eight $\frac{21}{100}$ ($438 $\frac{21}{100}$) dollars.

The whole of section fifteen, township thirteen north, range
16 one east, containing six hundred and forty acres, for the sum of seventeen hundred and fifty-two and $\frac{86}{100}$ ($1,752$\frac{86}{100}$) dollars.

The east $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section sixteen, containing eighty acres, for the sum of two hundred and nineteen $\frac{11}{100}$ ($219 $\frac{11}{100}$) dollars.

The east $\frac{1}{2}$ of section twenty-one, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

The west $\frac{1}{2}$, the west $\frac{1}{2}$ of the northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section twenty-two, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314 $\frac{64}{100}$) dollars.

The west $\frac{1}{2}$, west $\frac{1}{2}$ of southeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the northeast

the said several charges above stated, be decreed and adjudged a lien upon the said respective tracts of land on which they are assessed, as hereinbefore stated, and that for the purpose of enforcing said lien an order or decree be made directing the sale of the said several tracts of land to satisfy the charges against them, respectively, with legal interest thereon, from the second day of April, 1877, and that such sale be made for gold coin of the United States as provided by law.

JACKSON HATCH,
Dist. Att'y, Colusa County.
WM. H. L. BARNES,
And F. L. HATCH, *Of Counsel.*

STATE OF CALIFORNIA, } ss:
County of Colusa, }

A. H. Rose, being first duly sworn deposes and says, that he is one of the trustees of Reclamation District, No. 108; that he has heard the foregoing complaint read and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

A. H. ROSE.

Subscribed and sworn to before me, this 1st day of August, A. D. 1877.

[L. S.]

J. B. DE JAMOTT,
Notary Public, Colusa Co., Cal.

Endorsed: Filed August 1st, 1877. S. M. Bishop, clerk, by W. H. Miles, deputy.

In this action the defendant having been regularly served with process, as appears by the papers on file herein, and the legal delay for answering having expired, and no answer or demurrer having been filed, the default of the said defendant is hereby entered according to law.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, this 13th day of Aug., 1877.

[SEAL.]

S. M. BISHOP, *Clerk.*
By W. H. MILLS, *Deputy.*

In the District Court of the Tenth Judicial District of the State of California, in and for the County of Colusa.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Plaintiff,

vs.

GEORGE HAGER, Defendant.

Action brought in the district court of the tenth judicial district of the State of California, in and for the county of Colusa, and the complaint filed in said county of Colusa, in the office of the clerk of said district court.

~~Summons.~~

The people of the State of California send greeting to George Hagar, defendant:

You are hereby required to appear in an action brought against you by the above-named plaintiff in the district court of the tenth judicial district of the State of California, in and for the
14 county of Colusa, and to answer the complaint filed therein, within ten days (exclusive of the day of service) after the service on you of this summons, if served within this county; or if served out of this county, but in this district, within twenty days, otherwise, within forty days, or judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought to recover the sum of fourteen thoussand and twenty and $\frac{67}{100}$ dollars, gold coin of the United States, with legal interest thereon from the second day of April, 1877, being the amount assessed against you in Reclamation District No. 108, as follows, upon the following tracts of land, to wit:

The west $\frac{1}{2}$ and southeast $\frac{1}{4}$ of section two, in township thirteen north, range one east, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314$\frac{64}{100}$) dollars.

The north $\frac{1}{2}$, southeast $\frac{1}{4}$, and east $\frac{1}{2}$ of southeast $\frac{1}{4}$ of section
15 three, township thirteen north, range one east, containing five hundred and fifty-nine $\frac{20}{100}$ acres, for the sum of fifteen hundred and thirty-one $\frac{56}{100}$ ($1,531$\frac{56}{100}$) dollars.

The east $\frac{1}{2}$ and east $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of section ten, township thirteen north, range one east, containing four hundred acres, for the sum of one thousand and ninety-five $\frac{54}{100}$ ($1,095 $\frac{54}{100}$) dollars.

The west $\frac{1}{2}$, northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section eleven, township thirteen north, range one east, containing five hundred and sixty acres, for the sum of fifteen hundred and thirty-three $\frac{75}{100}$ ($1,533 $\frac{75}{100}$) dollars.

The northwest $\frac{1}{4}$ of section fourteen, township thirteen north, range one east, containing one hundred and sixty acres, for the sum of four hundred and thirty-eight $\frac{21}{100}$ ($438 $\frac{21}{100}$) dollars.

The whole of section fifteen, township thirteen north, range
16 one east, containing six hundred and forty acres, for the sum of seventeen hundred and fifty-two and $\frac{86}{100}$ ($1,752 $\frac{86}{100}$) dollars.

The east $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section sixteen, containing eighty acres, for the sum of two hundred and nineteen $\frac{11}{100}$ ($219 $\frac{11}{100}$) dollars.

The east $\frac{1}{2}$ of section twenty-one, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

The west $\frac{1}{2}$, the west $\frac{1}{2}$ of the northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section twenty-two, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314 $\frac{64}{100}$) dollars.

The west $\frac{1}{2}$, west $\frac{1}{2}$ of southeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the northeast

the said several charges above stated, be decreed and ad-
10 judged a lien upon the said respective tracts of land on which they are assessed, as hereinbefore stated, and that for the purpose of enforcing said lien an order or decree be made directing the sale of the said several tracts of land to satisfy the charges against them, respectively, with legal interest thereon, from the second day of April, 1877, and that such sale be made for gold coin of the United States as provided by law.

JACKSON HATCH,
Dist. Att'y, Colusa County.
WM. H. L. BARNES,
And F. L. HATCH, *Of Counsel.*

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County of Colusa, }

A. H. Rose, being first duly sworn deposes and says, that he is one of the trustees of Reclamation District, No. 108; that
11 he has heard the foregoing complaint read and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

A. H. ROSE.

Subscribed and sworn to before me, this 1st day of August, A. D. 1877.

[L. S.]

J. B. DE JAMOTT,
Notary Public, Colusa Co., Cal.

Endorsed: Filed August 1st, 1877. S. M. Bishop, clerk, by W. H. Miles, deputy.

In this action the defendant having been regularly served with process, as appears by the papers on file herein, and the legal delay for answering having expired, and no answer or demurer
12 having been filed, the default of the said defendant is hereby entered according to law.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, this 13th day of Aug., 1877.

[SEAL.]

S. M. BISHOP, *Clerk.*
By W. H. MILLS, *Deputy.*

13 In the District Court of the Tenth Judicial District of the State of California, in and for the County of Colusa.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Plaintiff,

vs.

GEORGE HAGER, Defendant.

Action brought in the district court of the tenth judicial district of the State of California, in and for the county of Colusa, and the complaint filed in said county of Colusa, in the office of the clerk of said district court.

~~*Summons.*~~

The people of the State of California send greeting to George Hagar, defendant:

You are hereby required to appear in an action brought against you by the above-named plaintiff in the district court of the tenth judicial district of the State of California, in and for the
14 county of Colusa, and to answer the complaint filed therein, within ten days (exclusive of the day of service) after the service on you of this summons, if served within this county; or if served out of this county, but in this district, within twenty days, otherwise, within forty days, or judgment by default will be taken against you, according to the prayer of said complaint.

The said action is brought to recover the sum of fourteen thousand and twenty and $\frac{67}{100}$ dollars, gold coin of the United States, with legal interest thereon from the second day of April, 1877, being the amount assessed against you in Reclamation District No. 108, as follows, upon the following tracts of land, to wit:

The west $\frac{1}{2}$ and southeast $\frac{1}{4}$ of section two, in township thirteen north, range one east, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314$\frac{64}{100}$) dollars.

The north $\frac{1}{2}$, southeast $\frac{1}{4}$, and east $\frac{1}{2}$ of southeast $\frac{1}{4}$ of section
15 three, township thirteen north, range one east, containing five hundred and fifty-nine $\frac{20}{100}$ acres, for the sum of fifteen hundred and thirty-one $\frac{56}{100}$ ($1,531$\frac{56}{100}$) dollars.

The east $\frac{1}{2}$ and east $\frac{1}{2}$ of the southwest $\frac{1}{4}$ of section ten, township thirteen north, range one east, containing four hundred acres, for the sum of one thousand and ninety-five $\frac{54}{100}$ ($1,095 $\frac{54}{100}$) dollars.

The west $\frac{1}{2}$, northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section eleven, township thirteen north, range one east, containing five hundred and sixty acres, for the sum of fifteen hundred and thirty-three $\frac{75}{100}$ ($1,533 $\frac{75}{100}$) dollars.

The northwest $\frac{1}{4}$ of section fourteen, township thirteen north, range one east, containing one hundred and sixty acres, for the sum of four hundred and thirty-eight $\frac{21}{100}$ ($438 $\frac{21}{100}$) dollars.

The whole of section fifteen, township thirteen north, range
16 one east, containing six hundred and forty acres, for the sum of seventeen hundred and fifty-two and $\frac{86}{100}$ ($1,752 $\frac{86}{100}$) dollars.

The east $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section sixteen, containing eighty acres, for the sum of two hundred and nineteen $\frac{11}{100}$ ($219 $\frac{11}{100}$) dollars.

The east $\frac{1}{2}$ of section twenty-one, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ ($876 $\frac{43}{100}$) dollars.

The west $\frac{1}{2}$, the west $\frac{1}{2}$ of the northeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the southeast $\frac{1}{4}$ of section twenty-two, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ ($1,314 $\frac{64}{100}$) dollars.

The west $\frac{1}{2}$, west $\frac{1}{2}$ of southeast $\frac{1}{4}$, and the west $\frac{1}{2}$ of the northeast

¼ of section twenty-seven, containing four hundred and eighty acres, for the sum of thirteen hundred and fourteen $\frac{64}{100}$ (1,314 $\frac{64}{100}$) dollars.

The east ½ of section twenty-eight, containing three hun-
17 dred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ (876 $\frac{43}{100}$) dollars.

The east ½ of section thirty-three, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ (876 $\frac{43}{100}$) dollars. The west ½ of section thirty-four, containing three hundred and twenty acres, for the sum of eight hundred and seventy-six $\frac{43}{100}$ (876 $\frac{43}{100}$) dollars.

All of the foregoing tracts of land being sections and parts of sections of township thirteen north, range one east, Mount Diablo base and meridian, according to the United States system of surveys. That the said several charges above stated be decreed and adjudged a lien upon the said respective tracts of land on which they are assessed as hereinbefore stated, and that for the purpose of enforcing said lien an order or decree be made directing
18 the sale of the said several tracts of land to satisfy the charges against them respectively, with legal interest thereon, and that such sale be made for gold coin of the United States as provided by law.

All of which will more fully appear by reference to plaintiff's complaint on file herein, a copy of which is hereunto attached.

And you are hereby notified that if you fail to appear and answer the said complaint as above required, the said plaintiff will take default and ask the court for the relief prayed for in said complaint.

Given under my hand and the seal of the district court of the tenth judicial district of the State of California, in and of the county of Colusa, this 1st day of August, in the year of our Lord,
19 one thousand eight hundred and seventy-seven.

S. M. BISHOP, *Clerk.*

[SEAL.] By C. H. NEWTON, *Deputy Clerk.*

Endorsed: Rec'd August 1st, 1877, at 15 min. past 4 o'clock p. m. D. H. Arnold, sheriff. By J. H. Pope, under sheriff.

SHERIFF'S OFFICE, *County of Colusa,* } *ss:*

I hereby certify that I received the within summons on the 1st day of August, 1877, and personally served the same upon the hereinafter named defendant by delivering to and leaving with Geo. Hagar personally, in the county of Colusa, at the time set opposite his name, a copy of said summons. And I further certify that the copy so delivered to and left with Geo. Hagar, the said de-
20 fendant, was attached to a certified copy of the complaint referred to in said summons.

Names of defendants served, George Hagar.

Time of service, August 1st, 1877.

Dated Colusa, this 2d day of August, 1877.

D. H. ARNOLD, *Sheriff.*

Sheriff's fees, $3.50.
Filed Aug. 2d, 1877.

S. M. BISHOP, *Clk.*
By W. H. MILES, *Deputy.*

JACKSON HATCH, *Dist. Att'y.*
W. H. L. BARNES and F. L. HATCH,
Of Counsel.

21 *Order that Deft. have time to Answer.*

In the District Court of the Tenth Judicial District of the State of California, in and for Colusa county.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Plaintiff,

vs.

GEORGE HAGAR, Defendant.

For good cause shown, it is ordered that the defendant in the above-entitled action, have until the 16th day of August, 1877, in which to answer or demur to the complaint filed in said action.

Aug. 8, 1877. PHIL. W. KEYSER,
District Judge.

Endorsed: Filed Aug. 13th, 1877. S. M. Bishop, clerk.

22 STATE OF CALIFORNIA, *County of Colusa:*

In the District Court of the Tenth Judicial District, August Term, A. D. 1877.

AUGUST 15*th*, A. D. 1877.

Court met pursuant to adjournment.
Present: His Hon. Phil. W. Keyser, presiding; D. H. Arnold, sheriff; S. M. Bishop, clerk.

And thereupon the following proceedings were had, to wit:

REC. DIST. No. 108, *vs.* GEO. HAGAR.

Motion to set aside default, and time extended till Saturday morning, to answer.
Court adjourned till 10 a. m. to-morrow.

PHIL. W. KEYSER.

23 *Demurrer.*

In the District Court for the 10th Judicial District of the State of California, in and for the County of Colusa.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, District Attorney of Colusa County,

vs.

GEORGE HAGAR.

Now comes the defendant in the above-entitled action and demurs

to the complaint of the plaintiff on file in said action, on the following grounds, to wit:

I.

That the said plaintiff has not legal capacity to sue or maintain the said action, for that—

First. The said Reclamation District No. 108 is not a corporation, public or private, and has no existence as a corporation.

24 Second. The said Reclamation District No. 108 has not capacity or authority under the laws of the State of California to sue or to prosecute or maintain the said action.

Third. The said A. H. Rose, Lewis A. Garnett, and Charles F. Reed are not, as trustees of said district, or otherwise, a corporation, and have not, as trustees of said district, or otherwise, capacity or authority to sue or to prosecute or maintain the said action.

III.

That Jackson Hatch, as the district attorney of said Colusa county, is not authorized to commence or prosecute the said action, or any action, in the name of "Reclamation District No. 108," by any law of this State.

III.

That there is a defect of parties defendant, in this: The several parcels of land particularly described, and against each of
25 which a separate assessment is sought to be enforced as a lien thereon, are not made parties defendant.

IV.

That several causes of action have been improperly united in said action, to wit: A several and distinct cause of action against each of said several parcels of land for the enforcement of a specific lien.

V.

That the said complaint does not state facts sufficient to constitute a cause of action against the defendant.

Wherefore, defendant prays judgment that plaintiffs take nothing by their action, and for costs.

W. C. BELCHER and W. F. GOOD,
Attorneys for Defendant.

Endorsed: Due service of a copy of the within demurrer
26 is acknowledged on me this —— day of August, 1877.

JACKSON HATCH,
Dis't Att'y.

Filed Aug. 18th, 1877.

S. M. BISHOP, *Cl'k.*
By W. H. MILES, *Dep't.*

27 *Order, Removing Cause to U. S. Circuit Court, Dis't of Cal'a.*

AUG. 13, '77.

STATE OF CALIFORNIA, *County of Colusa:*

In the District Court of the Tenth Judicial District, August Term, A. D. 1877.

AUGUST 18th, A. D. 1877.

Court met pursuant to adjournment.
Present: His Hon. Phil. W. Keyser, presiding.
D. H. ARNOLD, *Sheriff.*
S. M. BISHOP, *Clerk.*

And, thereupon, the following proceedings were had, to wit:

REC. DIST. NO. 108 *vs.* GEO. HAGAR.

Placed on calendar as of August 15th, 1877; and now comes said defendant and files his petition and bond for the removal of
28 said cause, and moves that said cause be removed in accordance with the prayer of said petition to the U. S. circuit court, which motion was accordingly granted.

Court adjourned.

29 *Petition for Removal of Cause to U. S. Circuit Court District of Cal'a.*

In the District Court of the 10th Judicial District of the State of California, in and for the County of Colusa.

RECLAMATION DISTRICT NO. 108, by Jackson Hatch, District Attorney of Colusa County, Plaintiff,
vs.
GEORGE HAGAR, Defendant.

The petition of George Hagar, the defendant in the above-entitled action, respectfully shows to the court that said action was commenced by the filing of the complaint therein and issuing the summons thereon, on the first day of August, 1877, and the present term of the court commencing on the 13th day of August, 1877, is the first term of said court since the commencement thereof,
30 and the first term of said court at which said action could be tried, and that the same has not been by the court tried or set for trial.

And petitioner further shows that the said action is a suit of civil nature, to enforce the collection and payment of the sum of fourteen thousand and twenty and $\frac{87}{100}$ dollars, alleged to have been levied and assessed as a reclamation tax or assessment upon certain lands in the complaint particularly described, and alleged therein to have been listed to the defendant as the owner, and to have the said assessment declared a lien on the said lands and to have the said

lands sold under decree of the court, to pay the said assessment and the costs, in gold coin of the United States.

And petitioner further shows, that the matter in dispute
31 exceeds the sum of five hundred dollars, exclusive of costs, and that the said action arises under, and that its determination will necessarily involve and require the construction and interpretation of the Constitution and laws of the United Sates, and particularly the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September 28, 1850, and of the provision of section 10 of article one of the Constitution of the United States, which declares that no State shall pass any "law impairing the obligation of contracts." And that provision of article six of the Constitution of the United States, which declares that the Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, and of the treaty of the United States with the Mexican Republic, made at Guadalupe Hidalgo, Feb'y 2, 1848.

32 And petitioner further shows, that the lands involved in the said action, and upon which the plaintiff asks to have the said assessment declared and enforced as a lien, are embraced within and form part of a Mexican colonization grant of eleven leagues of land, made in the year 1844, by the Mexican Government, to one Manuel Jimeno, a Mexican citizen, and afterwards, and prior to 1870, confirmed and patented by the United States to the grantees of said Jamino, under whom defendant claims and deraigns title, and that the lands embraced in and conveyed by the said grant and patent were never sectionized or subdivided into sections and subdivisions of sections by the United States, or the State of California, or by defendant or any of his grantors.

That on the 28th day of September, 1850, the United States
33 granted to the State of California all the swamp overflowed land within the limits, rendered thereby unfit for cultivation, which remained unsold at the date of the grant by an act of Congress approved on that day, and entitled, "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," subject to the terms and conditions of the said act; and the State of California accepted the said grant, subject to the terms and conditions thereof.

That afterwards, on the 28th day of March, 1868, by an act of its Legislature, approved on that day, and entitled, "An act to provide for the management and sale of the lands belonging to the State," the State of California made the following among other provisions, that "Whenever the holders of certificates of purchase patents or other evidences of title representing one-half
34 or more of any body of swamp and overflowed salt marsh or tide lands susceptible of one mode of reclamation, desire to reclaim the same, they shall present to the board of supervisors of the county in which said lands or the greater part thereof are situ-

ated, at a regular meeting of said board, a petition setting forth that they desire to adopt measures to reclaim the same, the description of the lands they propose to reclaim by township, range, section, and subdivision of section, the quantity sold, and the quantity remaining unsold, the number of acres in the whole district, and the number of acres in each tract sold, with the name, if known, of the owner thereof. The petition shall be sworn to by at least one of the petitioners, and by sec. 32, that upon the hearing and approval of the said petition by the board of supervisors, or previously, if they shall so elect, the said petitioners shall elect or appoint three
35 trustees, and shall ordain and establish such by-laws as they shall deem necessary to effect the work of reclamation and keep the same in repair. * * *

The by-laws thus adopted shall be recorded by the county recorder in the same book and immediately following the petition, and by sec. 33 that the Board of Trustees shall report to the Board of Supervisors the plans of the works and estimates of the costs, together with estimates of the incidental expenses of superintendence, repairs, &c., and that the Board of Supervisors shall appoint three commissioners to assess the amount on the lands of the district.

And by sec. 35 that the commissioners shall make a list of the amount due from each owner of land in the district, and file the same with the county treasurer, and that the treasurer shall
36 thereupon credit each purchaser, who has paid in full for his land, with eighty cents per acre, less the amount deducted by the register of the State land office on account of moneys theretofore drawn.

And by sec. 41 that after the work of reclamation shall be accomplished the trustees shall file in the office of the county recorder a sworn statement of the fact, and thereupon the moneys credited shall be paid over to the trustees.

And by sec. 42 that three years after the filing of such sworn statement, the Board of Supervisors shall appoint commissioners to inspect the work and the land, and upon their sworn statement that the reclamation is complete, or the land has been successfully cultivated for three years, the register shall credit each purchaser with payment in full for his lands, and the purchaser shall be en-
37 titled to a patent, and the register shall order all moneys paid by such purchaser, after deducting the proper proportion for amounts previously paid out of the swamp land fund, to be paid over to such purchasers.

Professing to act under the provisions of the said act of the Legislature of California, Louis A. Garnett, A. H. Rose, Charles F. Reed, and the Sacramento Valley Reclamation Company, on or about the 17th day of August, 1870, filed with the Board of Supervisors of the county of Yolo, in the State of California, their petition, in which the petitioners stated that they desired to adopt measures to reclaim the body of swamp and overflowed lands described in the schedule thereto annexed, and for that purpose to

form a district to include the same; that the whole number
38 of acres in the proposed district was $74{,}085\frac{87}{100}$, and that the petitioners were holders of certificates of purchase and other evidences of title to $42{,}279\frac{87}{100}$ acres thereof, and that the said lands were situated in the counties of Yolo and Colusa—$40{,}805\frac{35}{100}$ in Yolo and $33{,}280\frac{52}{100}$ in Colusa.

That of the lands described in the schedule attached to said petition about $58{,}441\frac{19}{100}$ acres, including all the $42{,}279\frac{87}{100}$ acres claimed by said petitioners, were lands granted to the State of California under the said act of Congress of September 28, 1850, nearly all of which had been prior to that date under her laws sold by the State to private parties.

And of the said lands so embraced $15{,}644\frac{68}{100}$ acres were parcel of the said Mexican grant to Manuel Jimeno, which had been prior to that date confirmed and patented by the United
39 States, and of which this petitioner was in said schedule stated to be and was in fact the owner.

That afterwards, at the hearing of the said petition, before the said Board of Supervisors, this petitioner appeared, and showing the derivation of his title to his said lands, opposed the including the same in the proposed reclamation district, or in any reclamation district to be formed under the said act, on the ground that they were not within the provision and purpose of the said act, and were exempt from being included in such reclamation district under the Constitution and laws of the United States.

That afterwards, on the 28th day of September, 1870, as alleged in the complaint, the said Board of Supervisors made an order approving the said petition, and forming a reclamation district, including the said lands of this petitioner.

That it is alleged in said complaint that said A. H. Rose,
40 Louis A. Garnett, and Chas. F. Reed, were, on said 28th day of September, 1870, appointed, and have ever since continued to be trustees of said district.

That on the said 28th day of September, 1870, the said Rose, Garnett, and Reed, as such trustees, presented to the Board of Supervisors of the counties of Yolo and Colusa, the plans of the work and the estimates of the cost, including incidental expenses of superintendence, repairs, &c., in which the entire cost was estimated at $140,000; and thereupon in the month of November, 1870, the said Board of Supervisors appointed three commissioners to assess, and who thereafter in the month of December, 1870, and January, 1871, did assess the sum of $140,000 upon the lands embraced in said district, at the rate of $\$1.95\frac{15}{100}$ per acre, and did assess and levy upon each and every acre of the said lands of this petitioner, $\$1.95\frac{15}{100}$.

41 That the said act of the Legislature of the State of California required that the parties petitioning for the formation of a reclamation district should, after the approval of their petition, ordain and establish by-laws, and the said Louis H. Garnett, A. H.

Rose, Charles F. Reed, and the Sacramento Valley Reclamation Company, did, on said 28th day of September, 1870, and after the approval of their said petition, ordain and establish by-laws for the said reclamation district, the 7th section of which by-laws was in these words, to wit: "The trustees shall allow no indebtedness to accrue in excess of the amount of assessment levied," and the said by-laws were filed and recorded in the office of the county recorder of said county, and thereby became and thence continued to be a part of the charter and authority of said board of trustees.

That on the 4th day of October, 1875, the said Rose, Gar-
42 nett, and Reed, as such trustees, made a report to said Board of Supervisors of the county of Yolo, in which they reported that the indebtedness created by them against said Reclamation District 108, over and above the amount of the said indebtedness of $140,000 and interest thereon, amounting in all to $160,000, was $192,046, and asked that the said Board of Supervisors appoint commissioners to assess the said sum upon the lands of said district, and the said Board of Supervisors did on said 4th day of October, 1875, appoint three commissioners, who assessed the said sum of $192,046 upon the lands embraced within the said district, and of said sum assessed the sum of $14,020.67 upon the lands of petitioner involved in this action, or more than $2.73 upon each and every acre of said lands, and the plaintiff brings the said action to enforce the payment of the same and to have the same declared
43 to be and enforced as a lien on the said lands.

And petitioner says that the State of California in accepting the said grant made by the said act of Congress of Sept. 28, 1850, undertook as the consideration of the grant thereof to reclaim the lands so granted out of the proceeds of said lands, and that the said act of the Legislature of said State approved March 28th, 1868, in so far as it authorized lands acquired under Mexican grants confirmed and patented by the United States to be embraced in reclamation districts formed under said act, and assessments to be levied thereon for the reclamation of such districts was repugnant to that clause of section 10, article 1, of the Constitution of the United States, which provides that no State shall pass any law impairing the obligation of contracts, because the said act did impair the
44 obligation of the contract of the State of California made in the acceptance of the said grant under the act of Congress of September 28, 1850, and because it did impair the obligation of the contract of the United States made under the provisions of the treaty of Guadalupe Hidalgo between the United States of America and the Mexican Republic, Feb'y 2, 1848, and of the laws of the United States as evidenced by its patent for the lands involved in this action issued in confirmation of the said Mexican Colonization grant, and because the said act was repugnant to the said act of Congress of the 28th day of Sept., 1850. And further shows that on the 30th day of March, 1874, an act of the Legislature of the State of California entitled "An act to amend the Political Code" was ap-

proved by the governor of said State of California, to go into effect on the first day of July, 1874, by the 88th section of which act it
45 was provided that in case the original assessment proved insufficient the trustees of a reclamation district might present a statement of the work done and its cost to the Board of Supervisors, by which the district was formed, and that the board must thereupon make an order directing the commissioners who made the first assessment, or other commissioners, to assess such amount as a charge upon the lands within the district.

That the said indebtedness of $192,046, as petitioner is informed and believes, contracted prior to the first day of July, 1874, and that subsequent to said day, to wit, on the 4th day of October, 1875, the said Rose, Garnett and Reed, as such trustees, made a statement showing the amount of such indebtedness, and the said Board of Supervisors thereupon on the same day appointed commis-
46 sioners, and directed them to assess the said sum upon the lands of said district, and the commissioners thus appointed did afterwards, to wit, on or before the —— day of February, 1877, assess the same upon such lands, and did assess upon the lands of petitioner involved in this action, the said sum of $14,020.67, which is the same assessment sued upon in this action.

And petitioner further says that the creation of the said indebtedness of $192,046 by the said Reclamation District, No. 108, was made in violation of the contract of its charter, and that the assessment thereof upon the lands of said district, and particularly upon the lands of this defendant, impairs the obligation of the contract, its charter, and that the said indebtedness and the assessment thereof upon the said lands are unconstitutional and void, and that the said 88th section of the said act of March 20, 1874, was
47 and is unconstitutional and void, because it impaired the obligation of such contract. And petitioner herewith presents his bond in the sum of five hundred dollars with sureties, conditioned to the effect that he will enter in the said circuit court of the United States on or before the first day of next term of said court a copy of the record in the said above-entitled suit, and will pay all costs that may be awarded by the said circuit court, if said court shall hold that such suit was wrongfully removed thereto, and also that he will there appear and enter special bail in said suit if special bail was originally requisite therein.

Wherefore petitioner prays that the said above-entitled action or suit now pending in this court be removed for trial and all further proceedings to the circuit court of the United States in and
48 for the ninth circuit and district of California, within which said district the lands involved in said action are situate, and within which the plaintiff and this defendant are residents.

W. C. BELCHER & W. F. GOOD,
Att'ys for George Hagar, the Petitioner.

STATE OF CALIFORNIA, }
County of Colusa, } ss:

George Hagar, being first duly sworn, says he is the petitioner named in the foregoing petition; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information or belief, and as to those matters he believes it true.

GEO. HAGAR.

49 Subscribed and sworn to before me, this 17th day of August, A. D. 1877.

S. M. BISHOP,
Clerk Dist. Court, Colusa Co., Cal.

Endorsed: Filed August 18th, 1877. S. M. Bishop, clerk; by W. H. Miles, deputy.

Bond of Removal.

50 Know all men by these presents that we, George Hagar, as principal, and Jackson Hart and J. W. Good, as sureties, are held and firmly bound unto Reclamation District No. 108 in the full sum of five hundred dollars lawful money of the United States, to be paid to said Reclamation District No. 108, its successors or assigns, for which payment, well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Witness our hands and seals, this 17th day of August, A. D. 1877.

The conditions of the above obligation are such, that whereas an action or suit is now pending in the district court of the 10th judicial district of the State of California, in and for the county of Colusa, in which Reclamation District No. 108, by Jackson
51 Hatch, district attorney of Colusa county, is plaintiff, and the above-named George Hagar is defendant.

And whereas said George Hagar is desirous to remove the said suit from said district court, in which the same is now pending, to the circuit court of the United States, in and for the ninth circuit and district of California, for trial and for all further proceeding.

Now, therefore, if the said George Hagar shall enter in the said circuit court, on or before the first day of its session next ensuing after the date hereof, a copy of the record in said suit, and shall pay all costs that may be awarded by the said circuit court, if said court shall hold that said suit was wrongfully or improperly
52 removed thereto, and also shall appear in said court and enter special bail in said suit, if special bail was originally requisite therein, then this obligation shall be void, but otherwise shall remain in full force and effect.

Done (Colusa) this 17 day of August, A. D. 1877.

GEO. HAGAR. [SEAL.]
JACKSON HART. [SEAL.]
J. W. GOOD. [SEAL.]

STATE OF CALIFORNIA, } ss:
County of Colusa, }

Jackson Hart and J. W. Good, being first duly sworn, say each for himself, that he is one of the sureties in the foregoing bond; that he is a freeholder resident of the county of Colusa, State of California, and is worth the sum of five hundred dollars over and above all his debts and liabilities, exclusive from property exempt from execution.

53 JACKSON HART.
J. W. GOOD.

Subscribed and sworn to before me, this 17th day of August, A. D. 1877.

S. M. BISHOP,
Clerk Dist. Court Colusa Co., Cal.

Endorsed: The within bond is approved by me this —— day of August, 1877. Filed August 18th, 1877. S. M. Bishop, clerk, by W. H. Miles, deputy.

54 *Certificate of Clerk of State Court.*

STATE OF CALIFORNIA, } ss:
County of Colusa, }

I, S. M. Bishop, county clerk and ex-officio clerk of the tenth judicial district in and for said county of Colusa, do hereby certify that I have compared the within and foregoing with the original complaint, summons, order extending time to answer, demurrer, petition for removal of cause to U. S. circuit court, bond on removal, and of the record in said action, and that the same are full, true, and correct copies thereof.

In witness whereof I have hereunto set my hand and affixed the seal of said court, this 29th day of September, 1877.

[SEAL.] S. M. BISHOP, *Clerk.*
By C. A. NEWTON, *Deputy.*

55 Endorsed: In U. S. circuit court district of California. Copies of papers transferred. Filed October 4th, 1877. L. S. B. Sawyer, Clerk, by J. F. O'Beirne, deputy clerk.

56 *Amendments to Petition*

In the Circuit Court of the United States, 9th Judicial Circuit District of California.

RECLAMATION DISTRICT 108, Plaintiff,
vs.
GEO. HAGAR, Defendant.

Now comes Geo. Hagar, the above-named defendant, and on whose petition the above-entitled cause was removed to this court from the

district court of the 10th judicial district in and for the county of Colusa, of the State of California, and makes the following amendments to his said petition:

1st Amendment.

On page —— of the original petition strike out all the
57 paragraph commencing with the words, "That the said act of the Legislature," and ending with the words the 9th section of which by-laws was in these words, to wit, and insert in lieu thereof these words: That the said law of March 28th, 1868, allowed the petitioners, for the formation of a reclamation district, before or after the hearing or approval of their petition, to ordain and establish such "by-laws" as they shall deem necessary to effect the work of reclamation, and to keep the same in repair; and also to elect three of their number to act as a board of trustees to manage the same, and the said law required the "by-laws" thus adopted to be signed by the holders of certificates of purchase or patents representing one half the lands so to be reclaimed or benefited, and required that the same should be recorded by the county
58 recorder in the same book and immediately following the petition; that on the 28th of September, 1870, the petitioners for the formation of said reclamation district without any notice to the other land owners in the said district, and exclusively by their own votes, elected three of their number to act as a Board of Trustees for said reclamation district, and also exclusively by their own votes, and without notice to the other land-holders in the said district, ordained and established a "code of by-laws" for said reclamation district to effect the work of reclamation therein, and to keep the works thereof in repair. The seventh section of which code of "by-laws" was and still is in those words:

2d Amendment.

Before the paragraph on last page commencing with these
59 words: "And petitioner herewith presents his bond," insert the following:

"That on the trial of this cause it will appear that Reclamation District 108 was formed on the 28th of September, 1870, under the law of the State of California, approved March 28, 1868, entitled 'An act to provide for the management and sale of lands belonging to the State,'" and the tax in said cause sued for has, as this defendant is advised by his counsel, and verily believes, in no respect any validity nor the Reclamation District 108 any existence unless sections 30, 31, 32, 33 and 34 of the said act of March 28, 1868, are valid. And that all of the defences of defendant to said action will be that said sections of said act are void and in contravention of the 1st section of the 14th amendment to the Constitution of the United States.

60 Defendant further avers that in the course of the trial of said cause, he will make it appear by competent proof that

his lands which are sought to be taxed on this cause are all arable, and were on the 28th day of September, 1850, and now are, suitable for cultivation in the staple crops of the county without reclamation, and are not swamp or overflowed lands within the meaning of the act of Congress of September 28th, 1850, and are not embraced within the purview or meaning of said State act of March 28th, 1868, and were not and could not be under the provisions of said act lawfully included within the limits of Reclamation District 108, and are exempt from such jurisdiction or control. And furthermore, as a matter of law, this defendant on the trial of said cause will claim that his said lands sought to be taxed were by the de-
61 cision of the Secretary of the Interior conclusively determined to be high lands, and were not, and are not swamp and overflowed lands, and are exempt from such taxation, even should it be conceded that they were in fact swamp and overflowed land, rendered thereby unfit for cultivation. And defendant will sustain these immunities or exemptions by competent proof, part of which will be the action of the judicial and executive departments of the United States Government, and particularly the decision and determination of the Secretary of the Interior in respect to said lands, in locating and segregating the lands embraced in the grant to Jimeno—referred to in the original petition of this defendant, of which grant the lands of this defendant in this cause sought to be taxed are a part, and a part of which will be
62 under the treaty of Feb'y 2, 1848, between the United States and Mexico, and in part will be under the Constitution of the United States, and especially the 1st section of the 14th amendment thereto.

That said action arises under, and its determination will necessarily involve and require the construction of, the Constitution of the United States, as in this and the original petition specified, and of the treaty of Guadalupe Hidalgo aforesaid; also of the acts of the judicial and executive departments of the Government of the United States in segregating and locating the said Jimeno grant, and of the laws, decisions, and regulations of the United States authorizing such segregation and location to be made; also of the act of Congress, approved Sept. 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp
63 lands within their limits.

GEO. HAGAR,
By GEO. CADWALADER AND
W. C. BELCHER,
His Att'ys and Solicitors.

STATE OF CALIFORNIA,
City and County of San Francisco.

Geo. Hagar, being first duly sworn, says that he has read the foregoing amendment to his petition for the removal of the foregoing cause to this Court for trial, and that he knows the contents

thereof, and that the same is true of his own knowledge, except as to the matters therein stated on his information or belief, and as to those matters he believes it to be true.

And he further says that the foregoing amendment to his petition is asked in good faith and without any desire or purpose to
64 delay the trial of the cause, and that he was not aware, until the date hereof, that his original petition did not state all the grounds possessed by him to give this court jurisdiction to hear and determine said cause.

GEO. HAGAR.

Subscribed and sworn to before me, this 26th November, 1877.

L. S. B. SAWYER,
Com'r U. S. Cir. Ct., &c.

Endorsed: Filed 27th November, 1877. L. S. B. Sawyer, clerk.

65 *Enrollment.*

At a stated term, to wit, the July term, A. D. 1880, of the circuit court of the United States of America, of the ninth judicial circuit in and for the district of California, held at the court room, in the city and county of San Francisco, on Monday, the eighth day of November, in the year of our Lord one thousand eight hundred and eighty—

Present, the Honorable Lorenzo Sawyer, circuit judge.

RECLAMATION DISTRICT, No. 108, by Jackson Hatch, the District Attorney of Colusa County,

vs.

GEORGE HAGAR.

The above-entitled suit was instituted in the district court
66 of the tenth judicial district of the State of California in and for the county of Colusa, on the 1st day of August, A. D. 1877.

On the 4th day of October, A. D. 1877, a certified copy of the record in the above-entitled suit was filed in this court.

On the 27th day of November, A. D. 1877, amendments to the petition to transfer this cause to this circuit court were filed and are hereto annexed.

On September 2d, 1878, an order was made and entered herein, in the words and figures following to wit:

At a stated term, to wit, the July term, A. D. 1878, of the circuit court of the United States of America, of the ninth judicial circuit in and for the district of California, held at the court
67 room, in the city and county of San Francisco, on Monday, the second day of September, in the year of our Lord one thousand eight hundred and seventy-eight—

Present: The Honorable Lorenzo Sawyer, circuit judge.

Enrollment. (*Order.*)

RECLAMATION DISTRICT No. 108
vs.
GEORGE HAGAR. } 1819.

On motion of W. C. Belcher, Esq., on behalf of defendant, it is ordered that the demurrer herein be, and the same hereby is, withdrawn, and that defendant have until next rule day to answer herein.

I hereby certify that the foregoing is a full, true, and cor-
68 rect copy of an original order made and entered in the above-entitled action.

Attest my hand and the seal of said circuit court this 9th day of December, A. D. 1880.

[SEAL.] L. S. B. SAWYER, *Clerk.*
By J. F. O'BEIRNE, *Deputy Clerk.*

69 *Enrollment.* (*Answer.*)

No. 1819.

In the Circuit Court of the United States, in and for the Ninth Circuit and District of California.

RECLAMATION DISTRICT No. 108,
vs.
GEORGE HAGAR.

The answer of George Hagar, defendant, to the bill of complaint of Reclamation District No. 108, complainant:

The defendant, now, and at all times hereafter, saving and reserving to himself all benefit and advantage which can, or may be, had or taken, to the many errors, uncertainties, and other imper-
70 fections in the complainant's said bill of complaint contained, for answer thereunto says:

I.

The defendant, answering said bill of complaint, admits, that on the 28th day of September, 1870, an order was made and given by the Board of Supervisors of the county of Yolo, State of California, whereby said Board approved the petition of A. H. Rose and others, for the formation of a reclamation district, embracing lands situate in the counties of Yolo and Colusa, in said State; that such approval was endorsed on said petition and signed by the president, and attested by the clerk of said Board, and that the reclamation district, so formed, was afterwards numbered by the Register of the State Land Office Reclamation District, number one hundred and eight, and that the said district is the district men-

tioned, and referred to in Subdivision II of said
71 bill of complaint; but this defendant, upon and according to his information and belief, denies that the said order was duly made, rendered, or given, or that the said Board of Supervisors, on the said 28th day of September, 1870, or ever at any time, had or acquired jurisdiction or authority to make, render, or give the said order, or any order or determination, for the formation of a reclamation district embracing the lands described in the said petition and the schedule thereto attached; and this defendant, further answering, admits and avers that the petition mentioned and referred to in said subdivision, purported to have been signed by Louis A. Garnett, A. H. Rose, Charles F. Reed, and the Sacramento Valley Reclamation Company, by William Blanding, its president, and to be verified by the oath of L. A. Garnett,
72 one of the petitioners, and was presented to said Board of Supervisors on the 17th day of August, 1870, but upon and according to his information and belief, this defendant denies that the said Sacramento Valley Reclamation Company signed the said petition or authorized or empowered the said William Blanding, as its president or otherwise, to sign the same or to present the same to said Board of Supervisors, or had power or authority to make or present or in any way to become a party to such petition, or that the said petition was duly verified at all, but admits that an affidavit was attached thereto, in the words an figures following, to wit:

STATE OF CALIFORNIA, *City and County of San Francisco.*

On this 15th day of August, A. D. 1870, before me, a
73 notary public in and for said city and county, personally appeared Louis A. Garnett, and being duly sworn, deposes and says that he is one of the persons who signed the foregoing petition; that he has read the same, and that the facts therein stated are true, to the best of his knowledge and belief.

LOUIS A. GARNETT.

Witness my hand and official seal the day and year above written.

[SEAL.] J. G. MESSIC,
Notary Public.

And in this behalf, further answering, this defendant denies that the said petition or the schedule thereto annexed stated or contained a description of the lands of this defendant, which by this suit the complainant seeks to charge with an assessment of more than
74 $2.73 per acre, and avers that his said lands are parcel of a Mexican colonization grant of eleven leagues of land made in the year 1844 by the Mexican government to one Manuel Jimeno, a Mexican citizen, and afterwards, and prior to the year 1870, confirmed and patented by the United States to the grantees of said Jimeno, under whom this defendant deraigns and claims title in

fee to the said lands; and that the said lands embraced in and conveyed by the said grant and patent were never surveyed or subdivided into sections and subdivisions of sections by or under the authority of the United States, or of the State of California, or of this defendant, or of any of his grantors, and that the State of California never at any time had or claimed to have any right, title, or interest in or to his said lands or any part or parcel thereof,
75 and that the said Board of Supervisors never had or acquired jurisdiction or authority under any law of the State of California, or otherwise, to form or to approve any petition for the formation of any reclamation district embracing the said lands of this defendant, so acquired by him under the said grant and patent.

And further answering the said bill of complaint, this defendant avers that on the 28th day of September, 1850, the United States granted to the State of California all the swamp and overflowed lands within her limits, rendered thereby unfit for cultivation, which remained unsold at the date of the grant, by an act of Congress approved on that day, and entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," subject to the terms and conditions of the said act;
76 and the State of California accepted the said grant subject to the terms and conditions thereof; that afterwards, on the 28th day of March, 1868, by an act of her Legislature, approved on that day, and entitled "An act to provide for the management and sale of the lands belonging to the State," the State of California made the following, among other provisions, to wit: By section 30, that "whenever the holders of certificates of purchase, patents, or other evidence of title representing one half or more of any body of swamp and overflowed, salt marsh, or tide lands, susceptible of one mode of reclamation, desire to reclaim the same, they shall present to the Board of Supervisors of the county in which said lands, or the greater part thereof are situated, at a regular meeting of said Board, a petition setting forth that they desire to adopt measures to reclaim the same; the description of the lands
77 they propose to reclaim by township, range, section, and subdivision of section; the quantity sold and the quantity remaining unsold; the number of acres in the whole district, and the number of acres in each tract sold, with the name (if known) of the owner thereof. The petition shall be sworn to by at least one of the petitioners." And by section 32, that "After the hearing and approval of the said petition by the Board of Supervisors, or, previously, if they shall so elect, the said petitioners shall ordain and establish such by-laws as they shall deem necessary to effect the work of reclamation and keep the same in repair, and shall elect or appoint three of their number, by the votes or signatures of the holders of certificates of purchase, or patents, representing at least one-half the land sought to be reclaimed, to act as a board of trustees
78 to manage the same. The by-laws thus adopted shall be recorded by the county recorder in the same book, and immedi-

ately following the petition." And by section 33, that the Board of Trustees shall report to the Board of Supervisors the plans of the works and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, etc.; and that the Board of Supervisors shall appoint three commissioners who shall jointly view and assess upon each and every acre to be reclaimed or benefited thereby, a tax proportionate to the whole expense, and to the benefits which will result from such works. And by section 35, that the commissioners shall make a list of the amount due from each owner of land in the district, and file the same with the county treasurer; and that the treasurer shall thereupon credit each purchaser who has paid in full for his land, with eighty cents per acre, less the amount deducted by the
79 register of the State land office, on account of moneys theretofore drawn. And by section 41, that after the work of reclamation shall be completed the trustees shall file, in the office of the county recorder, a sworn statement of the fact, and thereupon the moneys credited shall be paid over to the trustees. And by section 42, that three years after the filing of such sworn statement the Board of Supervisors shall appoint commissioners to inspect the work and the land, and upon their sworn statement that the reclamation is complete, or the land has been successfully cultivated for three years, the register shall credit each purchaser with payment in full for his lands, and the purchaser shall be entitled to a patent, and the register shall order all moneys paid by such purchaser, after deducting the proper proportion for amounts previously paid out of the
80 swamp fund, to be paid over to such purchasers.

Professing to act under the provisions of the said act of the Legislature of California, Louis A. Garnett, A. H. Rose, Charles F. Reed, and William Blanding, as president of the Sacramento Valley Reclamation Company, on or about the 17th day of August, 1870, presented to the Board of Supervisors of the county of Yolo, in the State of California, the said petition, in which the petitioners stated that they desired to adopt measures to reclaim the body of the swamp and overflowed land described in the schedule thereto annexed, and for that purpose to form a district to include the same; that the whole number of acres in the said proposed district was seventy-four thousand and eighty-five and eighty-seven one hundredths; and that the petitioners were holders of certificates of purchase
81 *and other evidences* of title to forty-two thousand two hundred and seventy-nine and eighty-seven one hundredths acres thereof; and that the said lands were situated in the counties of Yolo and Colusa forty thousand eight hundred and five and thirty-five one hundredths acres in Yolo county, and thirty-three thousand two hundred and eighty and fifty-two one hundredths acres in Colusa county.

That of the lands described in the schedule attached to said petition, about fifty thousand four hundred and forty-one and $\frac{19}{100}$ acres, including all the forty-two thousand two hundred and seventy-nine

and $\frac{87}{100}$ acres, claimed by said petitioners, were lands granted to the State of California, under, and by the said act of Congress of September 28, 1850, the larger part of which had been, prior to that date, under her laws, sold by the State to private parties;
82 and of the said lands so embraced, fifteen thousand six hundred and forty-four and $\frac{63}{100}$, including the lands of this defendant, embraced in this action, were parcel of the said Mexican grant, and about eight thousand acres were lands sold and patented as high land by the United States to pre-emption settlers, and at private entry; and this defendant says, that his said lands so granted by the Mexican government, and patented by the United States, were not within the purview and purpose of the said act of the Legislature of the State of California, of March 28, 1868, and were, under the said act, and under the Constitution and laws of the United States, exempt from being included in the said reclamation district, or in any reclamation district formed under the said act, and that his said lands have never been surveyed, or segregated, or declared swamp and overflowed lands by the United States,
83 or the State of California, but had been, as this defendant is informed, and believes, by the proper officers of the Land Department of the United States, conclusively and definitively determined to be, and were, high lands, suitable for cultivation.

II.

And further answering the said bill of complaint, this defendant, upon and according to his information and belief, denies that the said A. H. Rose, Louis A. Garnett, and Charles F. Reed, on the 28th day of September, 1870, or ever at any time, were duly appointed, or were on said day, or ever at any time, appointed, or became trustees of said Reclamation District No. 108; but this defendant admits that, on said day, the said A. H. Rose, Louis A. Garnett, Charles F. Reed, and the said William Blanding,
84 professing to act as the president, and in the name of said Sacramento Valley Reclamation Company, made and filed with the county recorder of said county of Yolo a certain writing which was signed, "The Sacramento Valley Reclamation Company," by William Blanding, president, Louis A. Garnett, A. H. Rose, Chas. F. Reed; and which purported to appoint the said A. H. Rose, Louis A. Garnett, and Charles F. Reed, trustees, of the said reclamation district; and that the said A. H. Rose, Louis A. Garnett, and Charlee F. Reed thereupon assumed, and have ever since assumed to be, and to act, as trustees of the said district; but this defendant, upon, and according to his information and belief, denies that the said A. H. Rose, Louis A. Garnett, Charles F. Reed, and the Sacramento Valley Reclamation Company, then held certificates of purchase, or patents, or certificates of purchase and patents, representing one half the land sought to be em-
85 braced, and which was embraced, in the said Reclamation District No. 108.

III.

And further answering the said bill of complaint, this defendant admits that on said 28th day of September, 1870, the said Rose, Garnett, and Reed, acting as such trustees, reported to the Boards of Supervisors of the counties of Yolo and Colusa plans of the work intended for the reclamation of the lands of said district and the estimate of its cost, together with estimates of the incidental expenses of superintendence and repairs, etc., and avers that in the said report the entire cost was estimated at one hundred and forty thousand dollars; and that thereafter, in the month of November, 1870, the said Board of Supervisors of the county of Yolo appointed three commissioners to assess, and that the commissioners
86 so appointed did, thereafter, in the month of December, 1870, and January, 1871, assess the said sum of one hundred and forty thousand dollars upon the lands of said district at the rate of one dollar and ninety-five and fifteen one-hundredth cents per acre, and did levy and assess upon each and every acre of the said lands of this defendant the sum of one dollar and ninety-five and fifteen one-hundredths cents.

IV.

And further answering the said bill of complaint this defendant admits that on the 4th day of October, 1875, but not on the 5th day of October, 1875, as stated in subdivision No. V thereof, the said Rose, Garnett and Reed, acting as trustees of said Reclamation District No. 108, presented to the Board of Supervisors of said county of Yolo a statement showing the work done in said district, and its cost, and that the original assessment levied on the lands of
87 said district was insufficient for the complete reclamation of the lands therein, and asking the said board to appoint commissioners to levy an assessment on the lands of said district for the sum of one hundred and ninety-two thousand and forty-six dollars, U. S. gold coin; and that thereupon on the same day, but not on the 5th day of October, as stated in said subdivision No. V, the said Board of Supervisors made an order appointing William Minis, John Kelly, and Moses Stinchfield, commissioners in said district, and directing them to assess the said sum of one hundred and ninety-two thousand and forty-six dollars, U. S. gold coin, as a charge on the lands within said district.

And further answering in this behalf, this defendant avers that the said act of the Legislature of the State of California, of March 28, 1868, required that the petitioners for the formation of a
88 reclamation district should, before or after the hearing and approval of their petition, ordain and establish such by-laws as they deem necessary to effect the work of reclamation, and to keep the same in repair; and that the by-laws thus ordained and established should be recorded by the county recorder in the same book and immediately following the petition; and that on the said

28th day of September, 1870, the petitioners for the formation of said Reclamation District No. 108, did ordain and establish such by-laws as they deemed necessary to effect the work of reclamation, and to keep the same in repair, and signed the same, and that such by-laws so ordained, established, and signed, were recorded in the office of the county recorder of said county of Yolo, in the same book with and immediately following the said petition; and
89 thereby became, and thence have continued, and still continue to be, a part of the charter of the said district, defining, and limiting the powers and authority of the trustees thereof; that the seventh section of the said by-laws, so ordained, established, and recorded was, and still continues to be, in the words following, to wit:

"*Seventh.* The trustees shall allow no indebtedness to accrue in excess of the assessment levied."

And that the said *seventh* section has ever since remained, and still remains, in force as one of the by-laws of said district.

And further answering in this behalf, this defendant avers that he is informed, and believes, and upon his information and belief states the fact to be, that the original assessment mentioned in said subdivision No. V, of said bill of complaint, was the sum of
90 one hundred and forty thousand dollars, and was assessed and levied upon the lands of said district in the months of December, 1870, and January, 1871, as hereinbefore stated, and that the said sum of one hundred and ninety-two thousand and forty-six dollars ($192,046) mentioned in said sub-division No. V, and which was, by the order of said Board of Supervisors, as in said subdivision stated, directed to be assessed by the said commissioners as a charge on the lands within said district, was an indebtedness created and contracted by the said Rose, Garnett and Reed, acting as trustees of said district against the said district, and was so created and contracted by them, prior to the first day of July, 1874, and was so created and contracted over and above, and in excess of, the amount of the said original assessment, to wit, the said sum of one hundred and forty thousand dollars, ($140,000,) which was the only assessment levied in said district prior to
91 said 4th day of October, 1875; and that a considerable portion of said indebtedness was created and contracted by said Rose, Garnett, and Reed, acting as such trustees for the services of attorneys, other than the district attorneys of the proper counties in actions in the proper courts, for enforcing the payment of the said original assessment, which actions it was, by the said act of March 28th, 1868, provided should be prosecuted by the district attorneys of the several counties in which the lands assessed were situate and for the fees or price therein specified, and for divers things and purposes other than the works for the reclamation of the lands of said districts; but is not informed, and has been unable to ascertain, and is unable to state the amounts by the said

trustees, included in said statement, as for the cost of work done.

92 And this defendant, further answering in this behalf, avers that on or about the 30th day of March, 1874, an act of the Legislature of the State of California, entitled "An act to amend the Political Code," was approved by the Governor of said State, to go into effect on the first day of July, 1874, and that by the 88th section of the said act it was provided that, in case the original assessment proved insufficient to provide for the complete reclamation of the lands of a reclamation district, the trustees of the district might present to the Board of Supervisors, by which the district was formed, a statement of the work done and its costs, and that such Board must thereupon make an order directing the commissioners who made the original assessment, or other commissioners, to assess *such amount* as a charge upon the lands within the district, and by the 86th section of said act it was further provided

93 that such assessment must be estimated and assessed in gold coin of the United States.

And further answering, this defendant admits that the said commissioners did afterwards, to wit: on or before the 3d day of February, 1877, assess the said sum of one hundred and ninety-two thousand and forty-six dollars, in gold coin of the United States, upon the lands within said District; and avers that such assessment was made at the rate of two dollars and seventy-three cents and upwards per acre upon the lands assessed, and that said commissioners assessed of the said sum the several sums stated in subdivision No. VIII of said bill of complaint, amounting in the aggregrate to the sum of $14,020.67, upon the lands of this defendant, which are involved in this suit.

94 And further answering, this defendant avers that the said indebtedness of one hundred and ninety-two thousand and forty-six dollars was created and contracted by the said Rose, Garnett, and Reed, acting as such trustees, in violation of the by-laws of said Reclamation District No. 108, and that the creation thereof was not within the powers or authority of the trustees of said district, and was void, as against the said district and the owners of land within the said district; and that the said Board of Supervisors, of the county of Yolo, did not on the said 4th day of October, 1875, or at any other time, have jurisdiction or authority to appoint commissioners to assess, or the said commissioners jurisdiction or authority to assess, the amount of such indebtedness, or any part thereof, as a charge upon the lands within said district, and particularly upon the lands of this defendant.

95 And further answering, this defendant avers that the said 86th and 88th sections of the said act of the Legislature of the State of California, approved March 30th, 1874, in so far they authorized the assessment of the amount of the said indebtedness of $102,046, or any part thereof, as a charge upon the lands of said district, and all acts and laws passed by the State of California, pur-

porting to validate or authorize the assessment of the amount of such indebtedness upon the lands of said district, or to enforce the collection of such assessment, impaired the obligation of the charter of said district, and were, and are, repugnant to that provision of the Constitution of the United States, which provides that no State shall pass any "law impairing the obligation of contracts," and were and are void.

96 And this defendant further answering, upon and according to his information and belief, avers that at the time said indebtedness was created and accrued the same was payable in lawful money of the United States; and that by the 91st section of the said act, approved March 30, 1874, it was, among other things, provided that in actions for the enforcement of such assessments, "the court may decree and adjudge a lien against the tracts assessed, and order them to be sold on execution or decree, as in other cases of sale of real estate. The judgment or decree *must direct* that the sale be made for gold and silver coin of the United States," and the complainant in his said bill of complaint asks that the decree of the court direct that the sale be made for gold coin of the United States.

97 And this defendant avers that the said section of said act is unconstitutional and void, because it impairs the obligations of contracts.

And this defendant, further answering, avers that the plaintiff, if it has any legal existence, is a confirmation formed for the private purposes of the petitioners therefor, and that the assessment of the said sum of $192.046, as a charge upon the lands within the said district, and particularly the assessment of the said sum of $14,020.67, parcel of the said sum of $192,046, sought by this suit to be enforced as a charge and lien upon the plaintiff's said lands is a taking of his said lands for a private purpose, and is repugnant to the provisions of the act of Congress, entitled "An act for the admission of the State of California into the Union," approved September 9, 1850, and of the constitution of the State of California, and of the Constitution of the United States.

98 And this defendant, further answering, avers that the said statement mentioned in subdivision No. V of said bill of complaint, made to said Board of Supervisors by said Rose, Garnett, and Reed, acting as such trustees, and showing such indebtedness of one hundred and ninety-two thousand and forty-six dollars, and the order of said Board of Supervisors appointing the said Minis, Kelly, and Stinchfield, commissioners to assess the same; and directing them to assess the said amount in gold coin, as a charge upon the lands within said district, and the assessments of the said amount by said commissioners as a charge upon the said lands, were each and all made and done without notice to this defendant, and that the said assessment, as a charge and lien upon his said lands, is a taking of his said lands without due process of law, and is repugnant to that provision of the Fourteenth Amend-

99 ment of the Constitution of the United States, which provides that no State shall deprive any person of life, liberty, or property, without due process of law.

And this defendant, further answering, avers that the said assessment of the said sum of $192,046, as a charge upon the lands within said district, and of the said sum of $14,020.67, parcel of said sum, upon the said lands of this defendant, was never equalized by the said commissioners, or any other board, tribunal, or officer; and that under the laws of the State of California relating to the making of such assessments, no provision is made for the equalization of the assessments made, or the correction of errors therein; and that, by reason thereof, the said assessment is a taking of the property of this defendant without due process of law, and is repugnant
100 to the provisions of the said Fourteenth Amendment of the Constitution of the United States.

And this defendent, further answering, avers that he is advised and believes that the State of California, in accepting the said grant, made to it by the said act of Congress, of September 28, 1850, undertook, as the consideration of the grant, to reclaim the lands so granted out of the proceeds thereof; and that the said act of the Legislature of said State, approved March 28, 1868, in so far as it authorized, if it did authorize, lands acquired under Mexican grants, confirmed and patented by the United States, to be embraced without consent of the owners thereof in reclamation districts, formed under the said act, and assessments to be levied thereon for the reclamation of the lands of said districts, impaired the obligation of the contract of said State, and
101 was repugnant to that clause of Section 10, Article I, of the Constitution of the United States, which provides that no State shall pass any law impairing the obligation of contracts.

And this defendant further answering denies that the said complainant is entitled to the relief, or any part of the relief, in the said bill of complaint demanded, and prays that he be hence dismissed with his costs and damages in this behalf sustained.

W. C. BELCHER,
Solicitor for Defendant.
T. S. BELCHER,
Counsel for Defendant.

UNITED STATES, DISTRICT AND STATE OF CALIFORNIA, *County of* ———, } *ss:*

George Hagar, being first duly sworn, does depose and say,
102 that he is the defendant named in the foregoing answer; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information or belief, and as to those matters he verily believes it to be true.

GEO. HAGAR.

Subscribed and sworn to before me, this 16th day of November, 1878.

LORENZO SAWYER,
Circuit Judge.

Service of copy of the foregoing made on me this 16th day of November, 1878.

A. C. ADAMS,
Att'y and Solicitor for Pl'ff.

Endorsed: Filed 18th Nov'r, 1878. L. S. B. Sawyer, clerk. By J. T. O'Beirne, dep'y cl'k.

103 *Enrollment.* (*Replication.*)

In the Circuit Court of the United States, in and for the Ninth Circuit and District of California.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Comp.

vs.

GEORGE HAGAR. Deft

The Replication of Reclamation District No. 108, complainant, to the answer of George Hagar, defendant.

This repliant, saving and reserving to itself, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto, says, that it will aver, maintain, and prove its bill of complaint to be true, certain, and sufficient in the law, to be answered unto; and that the said answer
104 of the said defendant is uncertain, untrue, and insufficient to be replied unto by this repliant without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is, and will be, ready to aver, maintain, and prove as this honorable court shall direct; and humbly prays as in and by its said bill of complaint it has already prayed.

JACKSON HATCH, WM. H. L. BARNES,
F. L. HATCH AND A. C. ADAMS,
Solicitors for Complainant.

Endorsed: Service of the within on us, this 12th day of July, 1879, hereby acknowledged. W. C. Belcher, solicitor for defendant. Filed 12 July, 1879. L. S. B. Sawyer, clerk. By J. F. O'Beirne, deputy clerk.

105 On the 18th day of November, A. D. 1878, an answer was filed, which is hereto annexed.

On the 12th day of July, A. D. 1879, a replication to said answer was filed, and is hereto annexed.

Thereafter a final decree was filed and entered herein, in the words and figures following, to wit:

Enrollment. (*Decree.*)

No. 1819.

In the Circuit Court of the United States, Ninth Judicial Circuit, for the District of California.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Complainant.

vs.

GEORGE HAGAR, Defendant.

106 This cause came on to be heard on the 23d day of January, 1880, at the November term of this court for the year 1879, and was submitted by the solicitors for the respective parties.

Whereupon upon consideration thereof on this 9th day of December, 1880, at the November term of said court for that year, on motion of complainant's solicitors it is now ordered. adjudged and decreed that the several amounts demanded in complainant's bill of complaint, as the several assessments upon the several tracts of land described in said bill of complaint, be and the same are severally, with interest thereon from the 2d day of April, 1877, at the rate of seven per cent. per annum and costs of suit, severally, liens upon and against the said several tracts of land as follows, to wit:

Upon and against the west half and the southeast quarter of
107 section two, in township thirteen north, range one east, containing four hundred and eighty acres, situated in said Colusa county, the sum of thirteen hundred and fourteen $\frac{64}{100}$ dollars principal, three hundred and ten $\frac{74}{100}$ interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the north half of the southeast quarter and the east half of the southwest quarter of section three, township thirteen north, range one east, containing five hundred and fifty-nine $\frac{20}{100}$ acres, situated in said Colusa county, the sum of fifteen hundred and thirty-one $\frac{56}{100}$ dollars principal, together with three hundred and ninety-three dollars interest and three $\frac{57}{100}$ dollars costs.

Upon and against the east half and the east half of the southwest quarter of section ten, township thirteen north, range one east, containing four hundred acres, situated in said Colusa county, the sum of one thousand and ninety-five $\frac{54}{100}$ dollars principal,
108 two hundred and fifty-eight $\frac{38}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the west half of the northeast quarter and the west half of the southeast quarter of section eleven, township thirteen north, range one east, containing five hundred and sixty

acres, situated in said Colusa county, the sum of fifteen hundred and thirty-three $\frac{75}{100}$ dollars principal, three hundred and seventy-five $\frac{76}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the northwest quarter of section fourteen, township thirteen north, range one east, containing one hundred and sixty acres, situated in said Colusa county, the sum of four hundred and thirty-eight $\frac{21}{100}$ dollars principal, one hundred and twelve $\frac{45}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the whole of section fifteen, township thirteen north, range one east, containing six hundred and forty
109 acres, situated in said Colusa county, the sum of seventeen hundred and fifty-two $\frac{86}{100}$ dollars principal, four hundred and fifty-one $\frac{23}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the east half of the southeast quarter of section sixteen, township thirteen north, range one east, containing eighty acres, situated in said Colusa county, the sum of two hundred and nineteen $\frac{11}{100}$ dollars principal, fifty-six $\frac{16}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the east half of section twenty-one, township thirteen north, range one east, containing three hundred and twenty acres situated in said Colusa county, the sum of eight hundred and seventy-six $\frac{43}{100}$ dollars principal, two hundred and twenty-four $\frac{94}{100}$ dollars interest, and three $\frac{57}{100}$ dollars cash.

Upon and against the west half, the west half of the north-
110 east quarter, and the west half of the southeast quarter of section twenty-two, township thirteen north, range one east, containing four hundred and eighty acres, situated in said Colusa county, the sum of thirteen hundred and fourteen $\frac{64}{100}$ dollars principal, three hundred and ten $\frac{74}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the west half, the west half of the southeast quarter, and the west half of the northeast quarter of section twenty-seven, township thirteen north, range one east, containing four hundred and eighty acres, situated in said Colusa county, the sum of thirteen hundred and fourteen $\frac{64}{100}$ dollars principal, three hundred and ten $\frac{74}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the east half of section twenty-eight, in township thirteen north, range one east, containing three hundred
111 and twenty acres, situated in said Colusa county, the sum of eight hundred and seventy-six $\frac{43}{100}$ dollars principal, two hundred and twenty-four $\frac{94}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs.

Upon and against the east half of section thirty-three in township thirteen north, range one east, containing three hundred and twenty acres, situated in said Colusa county, the sum of eight hundred and seventy-six $\frac{43}{100}$ dollars principal, two hundred and twenty-four $\frac{94}{100}$ dollars interest, and three $\frac{57}{100}$ dollars cost.

Upon and against the west half of section thirty-four, in township thirteen north, range one east, containing three hundred and twenty

acres, situated in said Colusa county, the sum of eight hundred and seventy-six $\frac{43}{100}$ dollars principal, two hundred and twenty-four $\frac{94}{100}$ dollars interest, and three $\frac{57}{100}$ dollars costs, all of the herein-
112 before mentioned tracts of land being in township thirteen north, range one east, Mount Diablo base and meridian, according to the United States system of surveys.

And it is further ordered, adjudged, and decreed, that the said several tracts of land hereinbefore described, or so much thereof as may be necessary therefor, be separately sold by William W. Morrow, Esq., as special master in chancery of this court, hereby appointed for that purpose according to law, to pay the amounts herein severally adjudged and decreed liens upon and against said several tracts of land and accruing interest and costs, unless payment hereof be made before such sale; that said several tracts of land be separately sold at public auction in front of the court-house in said Colusa county, between the hours of nine in the morning and five in the afternoon, to the highest and best bidder for cash in
113 United States gold and silver coin (notice being first given of such sale according to law,) that out of the proceeds of such separate sales there be paid respectively, first the costs and expenses of such separate sales; second, the amounts respectively so adjudged and decreed severally liens upon and against such several tracts of land, with accrued interest and costs; and third, the balance, if any, to said defendant, George Hagar, or his assigns.

And it is further ordered, adjudged, and decreed that said sales be made subject to redemption, according to law, and that at the expiration of the time so allowed for redemption for such of said tracts of land as shall not have been so redeemed, if any, the said master execute deeds, and that the purchasers thereof be thereupon let into possession of the same.

Dated December 9, 1880.

(Signed) LORENZO SAWYER,
Circuit Judge.

114 Endorsed: Filed 9 December, 1880. L. S. B. Sawyer, clerk.

115 *Certificate of Clerk.*

Whereupon said pleadings, copy of record, and final decree are hereto annexed, said decree being duly signed, filed, and enrolled pursuant to the practice of said circuit court.

Attest, &c.

L. S. B. SAWYER, *Clerk.*
By J. F. O'BEIRNE, *Dep'y Clerk.*

Endorsed: Enrolled papers. Filed 9th Dec'r, 1880. L. S. B. Sawyer, clerk. By J. F. O'Beirne, deputy clerk.

116 *Notice of Motion to Remand Cause.*

In the United States Circuit Court in and for the District of California.

Suit brought in the district court of the 10th judicial district of the State of California, in and for the county of Colusa, and transferred to the above-named United States circuit court on the petition of defendant.

RECLAMATION DISTRICT No. 108, Pl'ff,
vs.
GEORGE HAGAR, D'f't.

To the above-named defendant, and W. C. Belcher, and W. F. Goad, Esqrs., attorneys for said defendant:

You and each of you will please take notice that on the 27th day of November, 1877, at the opening of the court on that day, or as soon thereafter as counsel can be heard, in the court room of
117 said court, in the city and county of San Francisco, State aforesaid, the plaintiff herein will move said United States circuit court to remand the above-entitled cause to the district court of the 10th judicial district of the State of California, in and for the county of Colusa, on the ground that it does not appear, from the facts stated either in the pleadings in the said cause or in the petition asking a transfer thereof, that the case is one arising under the Constitution or laws of the United States or any treaty made under their authority, within the meaning of the act of Congress of March 3d, 1875, and that said U. S. circuit court has no jurisdiction of said cause.

Said motion will be made on the pleadings in said cause and the petition of said defendant asking said transfer, above referred to, on file in said cause.

Dated San Francisco, Nov'r 19th, 1877.

JACKSON HATCH,
Dist. Att'y and Att'y for Plff.

118 Due service of the within by copy on me, this 19th day of November, 1877, hereby acknowledged.

W. C. BELCHER
AND W. F. GOAD,
Attorneys for Deft.

Filed Nov. 19th, 1877.

L. S. B. SAWYER, *Clerk.*
By J. F. O'BEIRNE, *Dep'y Clerk.*

119 *Notice of Motion to Remand Cause.*

In the United States Circuit Court in and for the District California.

Action brought "in the district court of the 10th judicial dis-

tric of the State of California, in and for the county of Colusa," and transferred to the above-named circuit court on petition of defendant.

RECLAMATION DISTRICT, No. 108, by Jackson Hatch, District Attorney of Colusa County, Pl'ff.

vs.

GEORGE HAGAR, Def't.

The above-named defendant, and W. C. Belcher and W. F. Goad, defendant's attorneys, will please take notice, that on the 26th day of November, 1877, at the opening of the court on that
120 day, or as soon thereafter as counsel can be heard, the above named plaintiff, at the court room of said court, in the city and county of San Francisco, in said State, will move said United States circuit court to remand said cause to the district court of the tenth judicial district of the State of Calfornia, in and for the county of Colusa, on the grounds that it does not appear from the facts alleged, either in the pleadings in said cause or the petition of defendant, asking a transfer of said cause from said district court, that the case is one arising under the Constitution or laws of the United States, within the meaning of the act of Congress of March 3d, 1875, or any treaty made under the authority of said Constitution or laws, and that said United States circuit court has no jurisdiction of said cause.

Said motion will be made on the pleadings on file in said
121 cause and on said petition of defendant, also on file thereon.

San Fran'co, Nov'r 20th, 1877.

JACKSON HATCH,
District Att'y of Caluso Co., Att'y for Pl'ff.

STATE OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

A. C. Adams, being duly sworn, deposes and says that he is an attorney of the United States circuit court, mentioned in the foregoing notice of motion, and is employed by the plaintiff in the cause therein entitled, with Jackson Hatch, Esq., the attorney of record in said action, for said plaintiff; that on Tuesday the 20th day of November, 1877, said affiant enclosed a true and correct copy of the foregoing said notice of motion in an envelope sealed and addressed to "W. F. Goad, Esq., Colusa, California," and deposited the same in the U. S. A. post office, in the city and county
122 of San Francisco in said State, and paid the postage thereon by placing thereon the required amount of United States postage stamps.

That said W. F. Goad is one of the attorneys of record in said action for the defendant therein, and resides in said Colusa, California.

A. C. ADAMS.

Subscribed and sworn to before me, this 20th day of Nov., 1877.
[SEAL.] OSCAR T. SHUCK,
Notary Public.

Endorsed: Filed Nov. 20th, 1877. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep'y cl'k.

123 In the United States Circuit Court in and for the District of California.

Action brought in the district court of the 10th judicial district of the State of California, in and for Colusa county, transferred on petition of defendant herein to the above-named circuit court.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, District Attorney of Colusa County, Pl'ff,
vs.
GEORGE HAGAR, Deft.

To Messrs. W. C. Belcher and W. F. Goad, attorneys for said defendant, and to said defendant, George Hagar:

124 You, and each of you, will please take notice that on the 26th day of November, A. D. 1877, at the opening of the court on that day, or as soon thereafter as counsel can be heard, the above-named plaintiff will, in the court-room of said court, in the city and county of San Francisco, California, move said circuit court to remand said cause to the district court of the 10th judicial district of the State of California, in and for Colusa county, on the ground that it does not appear from the facts alleged in the pleadings in said cause, nor in the defendant's petition asking for a tranfer from the latter to said circuit court, that the case is one arising under the Constitution and laws of the United States, within the meaning of the act of Congress of March 3d, A. D. 1875, nor under any treaty of the United States, and that said circuit court has no jurisdiction of said cause.

125 Said motion will be made upon the pleadings in said cause, the petition of said defendant above-mentioned, and on this notice.

Dated Nov. 19th, A. D. 1877.

JACKSON HATCH,
Dis. Att'y for Colusa County and Attorney for Plaintiff,
AND F. L. HATCH,
Of Counsel, &c.

STATE OF CALIFORNIA, }
County of Colusa. }

F. L. Hatch being duly sworn, on his oath deposes and says, that he is of lawful age; that he served the foregoing notice upon the defendant George Hagar, by delivering to him a true and correct copy thereof, at the town of Colusa, in Colusa county, State of California, on the 19th day of November, A. D. 1877.

F. L. HATCH.

Sworn to and subscribed before me, this November 19th, A. D. 1877.

[SEAL.] S. M. BISHOP, *Clerk.*
By W. H. MILES, *Deputy.*

126 STATE OF CALIFORNIA, }
County of Colusa. }

F. L. Hatch being duly sworn, on his oath says, that he is of lawful age; that he is one of the attorneys of the plaintiff in the above-entitled action; that he, affiant, served the foregoing notice on F. W. Goad, one of the attorneys of record of said defendant, on the 19th day of November, A. D. 1877, by leaving a true copy thereof with J. W. Goad, clerk of said W. F. Goad, in the town of Colusa, Colusa county, State of California; the said W. F. Goad being at the time absent from said town and county.

F. L. HATCH.

Sworn to and subscribed before me, this November the 19th, A. D. 1877.

[SEAL.] S. M. BISHOP, *Clerk.*
By W. H. MILES, *Deputy.*

Endorsed: Filed Nov. 20, 1877. L. S. B. Sawyer, cl'k. By J. F. O'Beirne, dep'y cl'k.

127 *Affidavit of W. C. Belcher.*

In the Circuit Court of the United States in and for the Ninth Circuit and District of California.

RECLAMATION DISTRICT NO. 108
vs.
GEO. HAGAR.

DISTRICT OF CALIFORNIA, }
City and County of San Francisco, } *ss:*

W. C. BELCHER, being first duly sworn, says he is the attorney and solicitor of the defendant in the above-entitled suit in this court, and was his attorney therein, in the district court of the tenth judicial district of the State of California, from which it was removed to this court, and as such attorney prepared the petition for the removal thereof from the State court to this court;
128 that the subject of such removal and the grounds therefor were new to deponent, and the said petition was hurriedly prepared in the midst of the business of a term of the court, and at a time and place when he had no opportunity to consult his associate counsel, and neither time nor facilities for the examination of authorities upon the subject, and that recent examination satisfies him that grounds for such removal, other and in addition to, those stated in such petition, exist, and should, under the rules of the court, be stated in a supplement or amendment to said petition,

and that at the time of preparing the said petition deponent was not aware that such grounds existed, or that it was incumbent on the petitioner to state in his petition all the grounds upon which he would rely for such removal or for maintaining the jurisdic-
129 tion of this court when the cause had been removed thereto. That deponent has had occasion quite recently to examine the subject of such removals, and is satisfied that the said original petition does not state all the grounds existing in favor of such removal, and is in that respect defective; and he therefore asks in behalf of defendant that he be allowed to file in this court an amendment to his said original petition, stating such additional grounds for said removal as he may be advised exist therefor.

W. C. BELCHER.

Subscribed and sworn to before me, this 27th day of November, 1877.

JAS. F. O'BEIRNE,
Comm'r U. S. Cir. Ct.

Endorsed: Filed 27 November, 1877. L. S. B. Sawyer, clerk.

130 *Stipulation.*

In the Circuit Court of the United States in and for the Ninth Circuit and District of California.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Complainant, *vs.* GEORGE HAGAR, Defendant.	No. 1819. In Equity.

It is hereby stipulated and agreed by and between the complainant and the defendant in the above-entitled cause, that for the purposes of said cause, and for no other purpose, the matters and things set out and stated in the "agreed statement of facts," marked "Exhibit A," immediately following and annexed to this stipulation, are true, and that on the trial of said cause so
131 much of said statement reciting said facts as shall not be objected to by either of said parties, and so much thereof as shall be objected to by either of said parties, but which shall, nevertheless, be determined by the court to be competent as testimony, shall be received and read in evidence and considered in the trial and hearing of said cause, and in its determination and decision as proper and competent testimony, and shall have the same effect as though proof of such facts had been taken by deposition herein in the manner and form provided by law and the rules and practice of said court for the taking of testimony in causes of this nature. And that upon the offer of either of said parties to read from said statement of facts any portion thereof as testimony, to which the other party desires to interpose objections, the party so ob-

132 objecting shall then and there specify and designate such objections, which may be for any cause other than that proof of such facts shall not have been taken by deposition in accordance with the usual manner and form provided by law and the rules and practice of said court, which shall not be interposed; and such objections and the admissibility or inadmissibility of the matters and things so objected to shall be determined by the court in the same manner, and with the same effect, as though proof of such matters and things so objected to had been taken by deposition in the usual way, and such objections had been interposed at the time of said deposition being taken and had been again reserved at the proper time, at the trial of said cause.

And neither this stipulation, nor said annexed statement
133 of facts, shall in any other suit or proceeding be deemed to be, nor used, as an admission of any matter or thing therein stated against either of said parties, or their successors or assigns.

W. H. L. BARNES,
F. L. HATCH,
JACKSON HATCH AND
A. C. ADAMS,
Solicitors for Complainant.
W. C. BELCHER AND
I. S. BELCHER,
Solicitors for Defendant.

Endorsed: Filed January 14th, 1880. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep'y cl'k.

134 *Agreed Statement of Facts.*

EXHIBIT A.

In the Circuit Court of the United States in and for the Ninth Circuit and District of California.

RECLAMATION DISTRICT No. 108, by Jackson Hatch, the District Attorney of Colusa County, Complainant,
vs.
GEORGE HAGAR, Defendant.

It is hereby stipulated and agreed, by and between the complainant and the defendant in the above-entitled cause, that the following are facts in said cause to be used on the trial and hearing
135 thereof, in the manner and with the effect stated in the stipulation to which the statement is annexed, and subject to the provisions and conditions of said stipulation, to wit:

First. Statement of facts on the part of complainant.

I.

On the 9th day of August, 1869, the Sacramento Valley Reclamation

Company was, and ever since has been, a corporation organized and doing business within and under the laws of the State of California for the purchase of swamp and overflowed lands and adjacent high lands in the State of California; the construction of dykes, levees, reservoirs, and other works necessary for the reclamation of the said swamp and overflowed lands, and for the collection and distribution of water for the purposes of irrigation, and the subdivision of said lands, when reclaimed, into suitable farming tracts,
136 and the sale thereof, with its principal place of business in the city and county of San Francisco, in said State, the certificate of whose incorporation is in words and figures following, to wit:

"[5-ct. Int. Rev. stamp. Cancelled. J. E. C. July 30, 1869.]

"*Certificate of Incorporation of the Sacramento Valley Reclamation Company.*

"We, the undersigned, do hereby certify, that we have associated ourselves together for the purpose of forming, and have formed, a company to be duly invested with corporate powers, under and by virtue of the laws of the State of California. And to that intent, we do further certify, the corporate name of the company shall be the Sacramento Valley Reclamation Company. The objects for which the company is formed are: The purchase of swamp and over-
137 flowed lands and adjacent highlands in the State of California.

"The construction of dykes, levees, canals, reservoirs, and other works necessary for the reclamation of the said swamp and overflowed lands, and for the collection and distribution of water for the purpose of irrigation.

"The subdivision of said lands, when reclaimed into suitable farming tracts, and the sale thereof.

"The amount of the capital stock shall be one million dollars, and shall consist of ten thousand shares of one hundred dollars each.

"The company shall exist for a period of fifty years.

"The management of the concerns of the company shall be vested in five trustees, and the following persons shall be the trustees for the first three months: William Blanding, Louis A. Garnett,
138 Robert F. Morrow, A. H. Rose, and John Heuston, Jun'r.

"The principal place of business of the company shall be in the city and county of San Francisco.

"Given under our hands, this thirteenth day of July, A. D. 1869.

"CHAS. E. McLANE.
"LOUIS A. GARNETT.
"THOS. BROWN.
"R. F. MORROW.
"WM. BLANDING.
"JOHN HEUSTON, JUN'R.
"A. H. ROSE.

" STATE OF CALIFORNIA, } ss:
" *City and County of San Francisco,* }

" On this thirty-first day of July, A. D. one thousand eight hundred and sixty-nine, before me, James G. Carson, a notary public in and for said city and county, duly commissioned and sworn, personally appeared the within named Chas. E. McLane, Louis A. Garnett, Thomas Brown, Robt. F. Morrow, William Blanding, John Heuston, Jr., and A. H. Rose, whose names are
139 subscribed to the annexed instrument as parties thereto, personally known to me to be the individuals described in and who executed the said annexed instrument, and they severally duly acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

" In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

" [SEAL.] JAMES G. CARSON,
" *Notary Public.*

" OFFICE OF THE COUNTY CLERK,
" *Of the City and County of San Francisco.*

" I, Washington Bartlett, county clerk of the city and county of San Francisco, State of California, and clerk of the county
140 court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the certificate of incorporation of the 'Sacramento Valley Reclamation Company,' filed on the second day of August, A. D. 1869, and now on file in my office.

" Witness my hand and the seal of said court, this third day of August, A. D. 1869.

" [SEAL.] WASHINGTON BARTLETT, *Clerk.*
" By BERT McNULTY, *Deputy Clerk.*

" Endorsed: Certified copy of the certificate of incorporation of the Sacramento Valley Reclamation. Filed in office of Secretary of State, August 9th, 1869. H. L. Nichols, Sec. of State, by Lew B. Harris, dep't."

141 Defendant interposes objections to the statement of facts on part of complainants, and to their admission in evidence, as follows, to wit:

To No. 1 defendant objects.

1. That the purpose expressed in the certificate, of holding and dealing in lands, was an unlawful purpose under the laws of California at the time of the date of said certificate, and was not one of the purposes for which a corporation could be lawfully formed.

2. That the said certificate is irrelevant and immaterial.

II.

On the 20th day of July, 1870, the board of trustees of said Sacramento Valley Reclamation Company, said corporation, at a regular meeting of said board, passed the following resolution, which was then and there entered on the minutes of said board, to wit:

142 "SAN FRANCISCO, *July* 20, 1870.

"*Resolved*, That the president of the company be authorized and directed to file the proper petition and take such other steps as may be necessary to form a swamp land district, embracing the land owned by the company in Yolo and Colusa counties."

To No. 2 defendant objects.

1. The resolution offered in evidence is irrelevant and immaterial.

2. It does not give, or purport to give, authority to join with others in making or presenting a petition.

3. The authority given was for a purpose which was not within the lawful powers of a corporation, and was void.

III.

On the 17th day of August, 1870, a petition, signed and
143 verified, as appears in the copy hereinafter set out, with a schedule annexed, as also appears in connection with said copy of said petition, was at a regular meeting of the Board of Supervisors of Yolo county, in said State, presented to said board by the persons whose signatures are appended thereto, which said petition, signatures, verification, schedule, and endorsements were in the words, figures, and characters, and observations following, to wit:

"To the Board of Supervisors of Yolo county, State of California:

"The undersigned present this petition and respectfully show, that they desire to adopt measures to reclaim the body of swamp and overflowed lands described in the schedule hereto annexed,
144 and for that purpose to form a district to include the same.

"A description of the lands your petitioners propose to to reclaim is set forth by township, range, section, and subdivision of section in the said schedule.

"The number of acres in the whole district is seventy-four thousand and eighty five and eighty-seven hundredths acres, (74,085 $\frac{87}{100}$,) of which your petitioners are holders of certificates of purchase from the State of California and other evidence of title to forty-two thousand two hundred and seventy-nine and eighty-seven hundredths acres, (42,472 $\frac{87}{100}$,) being, and representing, more than one-half of all the lands within the proposed district.

"That the lands included within the limits of the proposed district are situated in Yolo and Colusa counties, of which forty thousand eight hundred and five and thirty-five hundredths acres
145 (40,805$\frac{35}{100}$) are situated in Yolo county, and thirty-three thousand two hundred and eighty and fifty-two hundredths acres (33,280$\frac{52}{100}$) are situated in Colusa county.

"That the schedule annexed states the several tracts of land in the said district, the number of acres in each tract, and the names of the owners thereof, so far as known.

"And that the said body of land is susceptible of one mode of reclamation.

"Wherefore your petitioners pray, that after due publication of the petition according to law, and the hearing of the same on a day to be fixed by your honorable body, you will grant the same, and allow the formation of the said district.

"THE SACRAMENTO VALLEY
RECLAMATION COMPANY.
"By WM. BLANDING,
"*President.*
"LOUIS A. GARNETT.
"A. H. ROSE.
"CHAS. F. REED."

146 STATE OF CALIFORNIA, *City and County of St. Francisco.*

On this 15th day of August, A. D. 1870, before me a notary public, in and for said city and county, personally appeared Louis A. Garnett, and being duly sworn, deposes and says that he is one of the persons who signed the foregoing petition, that he has read the same, and that the facts therein stated are true to the best of his knowledge and belief.

LOUIS A. GARNETT.

Witness my hand and official seal, the day and year above written.

I. G. MESSEC,
Notary Public.

147 SCHEDULE.

Township 11 *North*, 1 *East*, *Mount Diable Meridian.*

Sec.	*Owner.*	*Subdivision.*	*Acres.*
11	A. H. Rose	N. E. $\frac{1}{4}$	160
2	"	Whole	640
3	"	E. $\frac{1}{2}$	320
	"	E. $\frac{1}{2}$ of N. W. $\frac{1}{4}$	80
	"	N. W. $\frac{1}{4}$ of N. W. $\frac{1}{4}$	40
12	L. A. Garnett	N. $\frac{1}{2}$	320
	"	N. $\frac{1}{2}$ of S. W. $\frac{1}{4}$	80
	"	N. $\frac{1}{2}$ of S. E. $\frac{1}{4}$	80
	"	Whole	640
12	A. I. Downs	S. $\frac{1}{2}$ of S. W. $\frac{1}{4}$	80

Sec.	Owner.	Subdivision.	Acres.
11	I. F. Mason	S. E. ¼	160
5	Henry Clawson	N. E. ¼ of S. E. ¼	40
4	Sacramento Valley Reclamation Co.	N. W. ¼	160
	"	W. ½ of N. E. ¼	80
3	"	S. W. ¼ of N. W. ¼	40
4	"	E. ½ of N. E. ¼	80
5	"	W. ½ of N. E. ¼	80
	"	N. W. ¼ of S. E. ¼	40
	"	N. W. ¼	160
	"	N. ½ of S. W. ¼	80
6	"	N. E. ¼	160

148 *Township* 11 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
6	Sacramento Valley Reclamation Co	E. ½ of S. E. ¼	80
	"	N. W. ¼ of S. E. ¼	40
	"	W. ½ of N. W. ¼	80
	"	N. E. ¼ of N. W. ¼	40
11	Fred'k Bonegman	N. W. ¼	160
10	John Roth	N. ½ of N. E. ¼	80
11	Louis Gauthier	S. W. ¼	160
5	H. H. Burr	E. ½ of N. E. ¼	80
4	C. F. Reid	N. W. ¼ of S. E. ¼	40
3	T. W. Strowbridge	N. E. ¼ of S. W. ¼	40
12	Unknown	S. ½ of S. E. ¼	80
13	"	N. E. ¼ of N. E. ¼	40

149 *Township* 11 *North*, 2 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
7	I. W. Jacobs	S. W. ¼ of S. E. ¼	40
	"	S. ½ of S. W. ¼	80
	"	S. W. ¼ of N. W. ¼	40
	"	N. W. ¼ of S. W. ¼	40
18	"	W. ½ of N. W ¼	80
16	L. A. Garnett	N. W. ¼	160
17	"	N. E. ¼	160
5	"	Whole	640
6	"	Whole	640
9	"	Whole	636.10
7	"	N. E. ¼	440
	"	E. ½ of N. W. ¼	
	"	N. W. ¼ of N. W. ¼	
	"	E. ½ of S. E. ¼	
	"	N. W. ¼ of S. E. ¼	
	"	N. E. ¼ of S. W. ¼	

Sec.	Owner.	Subdivision.	Acres.
8	L. A. Garnett	Whole	640
4	"	Fract'l W. ½	388.36
	"	" S. E. ¼	
17	Jonathan Phillips	N. ½ of N. W. ¼	80
10	Chas. F. Reed	Fract'l W. ½	409
15	"	" N. ½	
	"	N. W. ¼ of S. E. ¼	

150 *Township* 11 *North*, 2 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
16	Chas. F. Reed	N. E. ¼	160
18	John D. Langmour	N. ½ of N. E. ¼	80
3	George Hagar	W. ½	500
	"	Fract'l N. E. ¼	
	"	S. E. ¼	
9	"	Fract'l N. E. ¼ of N. E. ¼	10
4	"	N. E. ¼	320
	"	Fract'l S. E. ¼	
	"	" E. ½ of N. W. ¼	
	"	" N. E. ¼ of S. W. ¼	
10	"	E. ½	520
	"	Fract'l W. ½	
11	"	Fract'l W. ½ of N. W. ¼	100
	"	" W. ½ of S. W. ¼	
14	"	" N. W. ¼	40
15	"	" N. E. ¼	30
17	Unknown	S. ½ of N. W. ¼	80

151 *Township* 12 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
1	George Hagar	Lots 5, 6, 7, 8, 9	179.06
	"	S. W. ¼ of S. W. ¼	
2	"	Lots 1, 3, 6, 7, S. W. ¼	446.12
	"	S. W. ¼ of N. W. ¼	
3	"	Whole	638
4	"	E. ½ of N. E. ¼	159.30
	"	E. ½ of S. E. ¼	
10	"	E. ½ of N. E. ¼	80
	"	N. W. ¼ of N. E. ¼	40
	"	N. E. ¼ of N. W. ¼	40
11	"	E. ½	320
	"	N. W. ¼	160
	"	E. ½ of S. W. ¼	80
12	"	Lots 1, 2, 3, 4, 5	509.55
	"	N. W. ¼ of N. W. ¼	
	"	S. ½ of N. W. ¼	
	"	W. ½ of S. E. ¼	
	"	S. W. ¼	

Sec.	Owner.	Subdivision.	Acres.
13	George Hagar	Lots 2, 3, 4, 5, 6, 7	320.37
	"	N. ½ of N. W. ¼	
	"	S. W. ¼ of N. W. ¼	
14	"	Whole	640

152 *Township* 12 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
15	George Hagar	S. E. ¼ of N. E. ¼	40
	"	E. ½ of S. E. ¼	80
22	"	E. ½ of N. E. ¼	80
	"	N. E. ¼ of S. E. ¼	40
23	"	Whole	640
24	"	Lots 1, 3, 5, 7, 8	300.08
	"	S. W. ¼ of N. W. ¼	
	"	S. ½ of S. W. ¼	
	"	N. W. ¼ of S. W. ¼	
25	"	Fractional sec.	512.61
36	"	Fract'l sec.	55.76
35	A. H. Rose	Whole	640
34	"	Whole	640
36	L. A. Garnett	Fract'l sec.	584.24
18	W. I. Clark	W. ½	320
7	"	W. ½	320
6	"	W. ½	320
33	H. H. Burr	S. W. ¼	160
32	"	E. ½ of S. E. ¼	80
31	Thos. Morris	W. ½ of N. W. ¼	80
	"	W. ½ of S. W. ¼	80

153 *Township* 12 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
4	Sacramento Valley Reclamation Co.	W. ½ of N. E. ¼	
	"	W. ½ of S. E. ¼	
	"	N. W. ¼	
	"	S. W. ¼	
5	"	Whole	
6	"	N. E. ¼	
	"	S. E. ¼	
7	"	N. E. ¼	
	"	S. E. ¼	
8	"	Whole	
9	"	Whole	
10	"	S. E. ¼	
	"	S. W. ¼ of N. E. ¼	
	"	S. W. ¼	
	"	S. E. ¼ of N. W. ¼	

Sec.	Owner.	Subdivision.	Acres.
10	Sacramento Valley Reclamation Co.	W. ½ of N. W. ¼	
11	"	W. ½ of S. W. ¼	
15	"	N. E. ¼ of N. E. ¼	
	"	W. ½ of N. E. ¼	
	"	W. ½ of S. E. ¼	
	"	N. W. ¼	
	"	S. W. ¼	

154 *Township* 12 *North*, 1 *East*, *Mount Diablo Meridian:*

Secs.	Owner.	Subdivision.	Acres.
16	Sacramento Valley Reclamation Co.	Whole	
17	"	"	
18	"	NE. ¼	
	"	SE. ¼	
19	"	Whole	
20	"	"	
21	"	"	
22	"	W. ½ of NE. ¼	
	"	SE. ¼ of SE. ¼	
	"	W. ½ of SE. ¼	
	"	NW. ¼	
	"	SW. ¼	
25	"	Fract'l SW. ¼	
26	"	S. ½	
	"	S. ½ of NW. ¼	
	"	Fract'l S. ½ of NE. ¼	
27	"	Whole	
28	"	"	
29	"	"	
30	"	"	
31	"	E. ½	
	"	E. ½ of W. ½	

155 *Township* 12 *North*, 1 *East*, *Mount Diablo Meridian.*

Secs.	Owners.	Subdivision.	Acres.
32	Sacramento Valley Reclamation Co.	NE. ¼	
	"	W. ½ of SE. ¼	
	"	NW. ¼	
	"	SW. ¼	
33	"	NE. ¼	
	"	SE. ¼	
	"	NW. ¼	
			13,171.49

156 *Township* 12 *North*, 2 *East*, *Mount Diablo Meridian.*

Sec.	*Owner.*	*Subdivision.*	*Acres.*
27	George Hagar	Fract'l Sec	300
21	"	Fract'l S. E. ¼, Lot 5	106.35
28	"	Lots 2, 3, 4	575
	"	E. ½ of S. W. ¼	
29	"	Lots 5, 6, 7, 8	404.86
	"	S. E. ¼	
	"	S. ½ of S. W. ¼	
	"	N. E. ¼ of S. W. ¼	
30	"	Fract'l Sec	541
31	"	Fract'l N. ½	136.42
32	"	Fract'l Sec	446
33	"	Fract'l Sec	555
34	"	Fract'l Sec	580
32	Louis A. Garnett	Fract'l S. ½	260
33	"	Fract'l S. W. ¼	
31	"	S. ½	510.68
	"	Fract'l N. ½	
30	"	S. E. ¼ of S. W. ¼	

157 *Township* 12 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	*Owner.*	*Subdivision.*	*Acres.*
1	W. I. Clark	E. ½	320
12	"	E. ½ S. W. ¼	480
13	"	E. ½ S. W. ¼	480
	"	N. W. ¼	160
25	Z. I. Brown	N. E. ¼	160
24	Sacramento Valley Reclamation Co.	Whole	640
23	"	E. ½ of N. E. ¼	80
	"	N. E. ¼ of S. E. ¼	40
25	"	E. ½ of N. W. ¼	80
	"	N. W. ¼ of N. W. ¼	40
1	Unknown	E. ½ of N. W. ¼	80
	"	S. W. ¼	160
11	"	E. ½ of N. E. ¼	80
	"	S. W. ¼ of N. E. ¼	40
	"	S. E. ¼	160
12	"	N. W. ¼	160
14	"	E. ½	320
25	"	S. E. ¼	160
36	"	N. E. ¼	160
	"	E. ½ of S. E. ¼	80

158 *Township* 13 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	*Owner.*	*Subdivision.*	*Acres.*
2	George Hagar	W. ½ S. E. ¼	480
3	"	N. ½ S. E. ¼	559.20
	"	E. ½ of S. W. ¼	
10	"	E. ½ E. ½ of S. W. ¼	400
11	"	W. ½ N. E. ¼	560
	"	W. ½ S. E. ¼	
14	"	N. W. ¼	160
15	"	Whole	640
16	"	E. ½ of S. E. ¼	80
21	"	E. ½	320
22	"	W. ½ W. ½ of N. E. ¼	480
	"	W. ½ of S. E. ¼	
27	"	W. ½ W. ½ of S. E. ¼	480
	"	W. ½ of N. E. ¼	
28	"	E. ½	320
33	"	E. ½	320
34	"	W. ½	320
3	Sacramento Valley Reclamation Co.	W. ½ of S. W. ¼	80
4	"	S. E. ¼	160
5	"	W. ½	320
	"	W. ½ of N. E. ¼	80
6	"	Whole	640

159 *Township* 13 *North*, 1 *East*, *Mount Diablo Meridian.*

7	Sacramento Valley Reclamation Co.	Whole	640
8	"	Whole	640
9	"	Whole	640
10	"	N. W. ¼	160
	"	W. ½ of S. W. ¼	80
16	"	N. ½	320
	"	S. W. ¼	160
	"	W. ½ of S. E. ¼	80
17	"	Whole	640
18	"	Whole	640
19	"	Whole	640
20	"	Whole	640
21	"	W. ½	320
28	"	W. ½	320
29	"	Whole	640
30	"	Whole	640
31	"	Whole	640
33	"	W. ½	320
32	"	Whole	640
4	I. I. Hiscock	N. W. ¼ of N. W. ¼	40
5	"	E. ½ of N. E. ¼	80

160 *Township* 13 *North*, 1 *East*, *Mount Diablo Meridian.*

Secs.	*Owner.*	*Subdivision.*	*Acres.*
5	Ruth I. Thompson	S. E. ¼	160
4	"	S. W. ¼	160
	Unknown	S. E. ¼ of N. W. ¼	40
	"	S. ½ of N. E. ¼	80

161 *Township* 13 *North*, 1 *West*, *Mount Diablo Meridian.*

Secs.	*Owner.*	*Subdivision.*	*Acres.*
4	Andrew Pierce	E. ½ E. ½ of N. W. ¼	401.32
1	Sacramento Valley Reclamation Co	Whole	640
2	"	"	640
3	"	"	640
11	"	"	640
12	"	"	640
13	"	"	640
14	"	N. E. ¼	160
	"	E. ½ of N. W. ¼	80
	"	N. W. ¼ of N. W. ¼	40
	"	N. ½ of S. E. ¼	80
	"	S. E. ¼ of S. E. ¼	40
24	"	N. E. ¼	160
	"	N. E. ¼ of N. W. ¼	40
	"	N. ½ of S. E. ¼	80
	"	S. E. ¼ of S. E. ¼	40
9	"	E. ½ of S. E. ¼	80
	"	S. E. ¼ of N. E. ¼	40
10	"	S. W. ¼ of S. W. ¼	40
14	"	S. W. ¼ of S. E. ¼	40
	"	E. ½ of S. W ¼	80
	"	N. W. ¼ of S. W. ¼	40

162 *Township* 13 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	*Owner.*	*Subdivision.*	*Acres.*
14	Sacramento Valley, Reclamation Co	S. W. ¼ of N. W. ¼	40
15	"	N. E. ¼ of S. E. ¼	40
	"	S. ½ of N. E. ¼	80
	"	E. ½ of N. W. ¼	80
	"	N. W. ¼ of N. W. ¼	40
23	"	E. ½ of N. E. ¼	80
	"	N. W. ¼ of N. E. ¼	40
24	"	S. W. ¼ of S. E. ¼	40
	"	E. ½ of S. W. ¼	80
	"	N. W. ¼ of S. W. ¼	40
	"	S. ½ of N. W. ¼	80

Sec.	Owner.	Subdivision.	Acres.
24	Sacramento Valley Reclamation Co.	N. W. ¼ of N. W. ¼	40
25	"	E. ½ of S. E ¼	80
	"	N. E. ¼	160
	"	N. E. ¼ of N. W. ¼	40
9	"	N. E. ¼ of N. E. ¼	40
15	"	N. ½ of N. E. ¼	80
10	Henry Gregory	E. ½ N. W. ¼	600
	"	E. ½ of S. W. ¼	
	"	N. W. ¼ of S. W. ¼	

163 *Township* 14 *North*, 1 *East*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
32	I. I. Hicock	E. ½	320
33	"	N. W. ¼	160
	"	N. E. ¼ of S. W. ¼	40
29	S. M. Wright	S. W. ¼	480
32	"	W. ½	
29	E. R. Hicock	S. E. ¼	160
28	"	S. W. ¼	160
19	Lloyd Rockhold	S. W. ¼	160
	"	S. ½ of N. W. ¼	80
31	I. F. Wilkins	W. ½	320
	"	S. E. ¼	160
29	Joseph Evans	S. ½ of N. W. ¼	80
30	"	N. E. ¼ of S. E. ¼	40
	Unknown	N. ½ of N. W. ¼	80
	"	S. W. ¼ of N. W. ¼	40
	"	S. W. ¼	160
31	"	S. W. ¼ of N. E. ¼	40
29	"	W. ½ of N. E. ¼	80

164 *Township* 14 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
28	Richard Pearson	S. W. ¼ of S. W. ¼,	240
29	"	S. ½ of S. E. ¼,	
32	"	N. ½ of N. E. ¼,	
33	"	N. W. ¼ of N. W. ¼,	
28	"	S. E. ¼ of S. W. ¼	40
32	"	S. ½ of N. E. ¼	80
33	"	E. ½ of N. W. ¼	80
	"	S. W. ¼ of N. W. ¼	40
	"	W. ½ of N. E. ¼	80
	"	N. E. ¼ of N. E. ¼	40
18	Jackson Hart	N. E. ¼ N. ½ of S. E. ¼,	280
	"	S. E. ¼ of S. E. ¼,	

Sec.	Owner.	Subdivision.	Acres.
7	A. G. Meacham	W. ½ of S. E. ¼	80
	"	S. W. ¼ of N. E. ¼	40
29	Wm. Shearer	E. ½ of N. W. ¼,	120
	"	N. W. ¼ of N. W. ¼,	
20	"	W. ½ of S. W. ¼	80
	"	S. E. ¼ of S. W. ¼	40
29	Henry H. Worley	N. ½ of S. E. ¼	80
28	"	N. ½ of S. W. ¼	80
23	Isaac Howell	S. E. ¼	160
	"	E. ½ of S. W. ¼	80

165 *Township* 14 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
24	A. Cregee	S. W. ¼	160
27	R. W. Moore	N. E. ¼	160
32	Simpson Tinnell	S. E. ¼	160
33	"	S. W. ¼	160
19	Wm. Kearth	E. ½ of E. ½	160
34	Benj. Y. Watson	N. W. ¼	160
17	John M. Steele	S. W. ¼ of N. W. ¼	40
	"	N. W. ¼ of S. W. ¼	40
34	Sacramento Valley Reclamation Co	S. E. ¼	160
35	"	E. ½	320
	"	S. W. ¼	160
36	"	Whole	640
24	I. I. Hicock	N. ½ of N. E. ¼	80
13	"	S. ½ of S. E. ¼	80
23	Allen Reynolds	N. W. ¼ of S. W. ¼	40
	"	S. W. ¼ of S. W. ¼	40
26	"	W. ½ of N. W. ¼	80
33	Andrew Pierce	S. E. ¼, S. E. ¼ of N. E. ¼	200
34	"	S. W. ¼	160
22	James Balsden	S. ½ of S. E. ¼	80
24	Lloyd Rockhold	S. ½ of N. E. ¼	80
	"	S. E. ¼	160

166 *Township* 14 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
13	Antonio Cregee	S. W. ¼	160
24	"	E. ½ of N. W. ¼	80
	"	S. W. ¼ of N. W. ¼	40
26	Silas Rigg	S. W. ¼, E. ½ of N. W. ¼	640
27	"	S. E. ¼	
34	"	N. E. ¼	
35	"	N. ½ of N. W. ¼	

Sec.	Owner.	Subdivision.	Acres.
25	John M. Mell	N. E. ¼	160
	John B. Shields	S. W. ¼	160
20	Jos. P. Shearer	E. ½ of N. W. ¼	80
	"	N. E. ¼ of S. W. ¼	40
25	Edwin F. Howell	N. W. ¼	160
26	"	N. E. ¼	160
	"	N. ½ of S. E. ¼	80
	William D. Cooper	S. ½ of S. E. ¼	80
27	Thos. Chambers	S. W. ¼	160
28	A. G. Glatzblade	S. E. ¼	160
29	W. L. Cowan	N. ½ of N. E. ¼	80
	"	S. ½ of N. E. ¼	80

167 *Township* 14 *North*, 1 *West*, *Mount Diablo Meridian.*

Sec.	Owner.	Subdivision.	Acres.
7	John M. Steele	Fract'l S. ½ of N. W. ¼	280
	"	Fract'l S. W. ¼	
18	"	Fract'l N. ½ of N. W. ¼	
25	Unknown	S. E. ¼	160
13	"	N. ½ of S. E. ¼	80
35	"	S. ½ of N. W. ¼	80
15	"	W. ½ of N. E. ¼	80
17	"	N. W. ¼ of N. W. ¼	40

"Endorsed: Filed August 17th, 1870. E. Bynum, clerk."

To No. 3 defendant objects:

1. That the petition was not sworn to or verified by one of the petitioners, or at all.

2. That the petition does not state the number of acres in the proposed district which had been sold, nor the number of
168 acres which remained unsold, nor that the whole had been sold.

3. That the petition does not allege or show that the lands sought to be included in the proposed district were lands granted to the State under the act of Congress of Sept. 28, 1850, or ever owned by the State, or were in fact swamp or overflowed lands.

4. Wm. Blanding, whose name appears signed to the hereinbefore set out petition as president, was at the time when said petition was signed, and ever since has been the president of said Sacramento Valley Reclamation Company.

5. Upon the presentation to them of said petition and schedule the Board of Supervisors of said Yolo county made and entered upon the minutes the following order, to wit:

169 "In the matter of the petition of the Sacramento Valley Reclamation Co., Louis A. Garnett, A. H. Rose, & Chas. F. Reed.

"The said parties having presented to the Board of Supervisors

of Yolo county, at a meeting of the board held this day in pursuance of successive adjournments of the regular meeting of the board, held on the first Monday of August inst., their petition sworn to by one of the petitioners praying for the formation of a district for the reclamation of the body of swamp and overflowed lands, stated in the petition and schedule thereto annexed, and that a day be fixed for the hearing of the said petition.

"It is therefore ordered that the petition be filed by the clerk of this board and that the same with the schedule be published for four weeks next preceding the hearing thereof in the 'Yolo Democrat,' a newspaper published in Yolo county, where the
170 greater portion of the lands are situated, and that the said petition be heard at an adjourned meeting of this board to be held at Woodland, on Monday, 19th day of September next, at 2 o'clock p. m.

"Ordered further, that the clerk publish with the said petition, a certified copy of this order, and that the usual affidavit of publication be filed with the clerk of the board at or before the hearing.

"Attest: E. ROBERTS, *President.*

"E. BYNUM, *Clerk,*

"By J. L. SIMPSON, *Deputy.*

"STATE OF CALIFORNIA, }
"*County of Yolo,* } *ss:*

"I, E. Bynum, county clerk of said county, and ex-officio clerk of the Board of Supervisors of said county, do hereby certify the above and foregoing to be a full, true, and correct copy of
171 the order of the said board in the above matter, made this 17th day of August, A. D. 1870.

"Witness my hand with my official seal hereto affixed at Woodland, the 17th day of August, A. D. 1870.

[SEAL.] "E. BYNUM, *Clerk,*

"By J. L. SIMPSON, *Deputy.*"

To No. 5 defendant objects:

1. The Board of Supervisors did not acquire, or have any jurisdiction or authority to make this order, or any order, in respect of the said petition.

First. Because the petition fails to conform to the requirements of law.

Second. Because the formation of a reclamation district is an exercise of legislative authority and discretion which cannot be by the Legislature delegated to a board of supervisors.

172 On the 19th September, 1870, thereafter an affidavit signed and sworn to, as appears therefrom, was filed with the Board of Supervisors of Yolo county, of which the following is a copy, to wit:

"STATE OF CALIFORNIA,
"*County of Yolo.*

"William Sanders, being duly sworn, deposes and says, that he is the publisher of the 'Yolo Democrat,' a newspaper of general circulation, printed and published weekly in the town of Woodland, county and State aforesaid, and that the annexed petition, schedule, and order of the Board of Supervisors, were duly published in said newspaper for four weeks next preceding the 19th of September, the day fixed for the hearing of said petition, to wit: on the 20th and 27th of August, and on the 3d and 10th, and 17th September, 1870.

173 "WILLIAM SAUNDERS.

"Subscribed and sworn to before me, this 19th September, 1870.
[SEAL.] "W. A. HENRY,
"*Notary Public.*

"And a copy of said petition, schedule, and order, was attached to said affidavit.

"Endorsed: Filed Sept. 19th, 1870. E. Bynum, clerk. By J. L. Simpson, deputy."

To No. 6 defendant objects: That it is immaterial.

On the 19th day of September, 1870, the said Board of Supervisors of Yolo county, again regularly met, when certain proceedings were then made, had and done, and thereupon, then and there, said Board caused to be entered an entry in words and figures following, to wit:

174

"MONDAY, *Sept 19th*, 1870.

"The Board of Supervisors met; present, Ed. Roberts and Geo. H. Swingle, of the Board, and E. Bynum, clerk.

In the Matter of the Petition of the Sac. Val. Reclamation Co. and Lewis A. Garnett, A. H. Rose, and Chas. F. Reed, Swamp Land District.

"The hearing of the petition heretofore filed in said matter coming on to-day pursuant to notice, due proof of the publication of which, in the Yolo Democrat, is filed. Now come the following parties and file their protests respectively, objecting to the formation and establishment of the proposed district for the reclamation of swamp and overflowed lands as set forth in said petition to wit:

175 George Hagar, J. P. Bullock, Z. J. Brown, W. J. Clark, owner of all the land in Swamp Land District No. 90, in Colusa county. The trustees of Swamp Land District No. 91, in Colusa county, by J. J. Hickok, their attorney. The owners in Swamp Land District No. 92, in Colusa county, by J. J. Hickok, their attorney. The trustees of Swamp Land District No. 94, in

Colusa Co., by J. J. Hickok, their attorney. Mrs. R. J. Thompson, by her attorney, J. J. Hickok.

"The objections of George Hagar and J. P. Bullock are argued by S. G. Harper, their attorney, and by J. W. Coffroth, attorney for petitioners. All the facts set forth in the petition being admitted by counsel for remonstrants, Hagar and Bullock.

"Petitioners introduce Wm. Blanding, who is sworn and examined as a witness, to show that the reclamation of other lands in said proposed district would necessarily result in the reclamation of the lands of said Hagar and Bullock.

176 "J. J. Hickok, owner of all the land in Swamp Land District No. 9, in Colusa Co., now offers in evidence a certified copy of petition for the formation of said district No. 90.

"Petitioners object on the ground that the proceedings in the formation of said district No. 90 are irregular in that publication, according to law has never been made, and the district was never formed.

("Objection sustained by the board and the paper rejected as evidence.)

"The trustees of above-mentioned district No. 91, by their attorney, J. J. Hickok, now offer in evidence to sustain their objections and protest a certified copy of the petition for the formation of said district, and their protest to the introduction of which petitioners, by their attorney, J. W. Coffroth, objects on the ground assigned in objection last above; and the further ground that the pro-

177 test is not signed by the owners of the land in said pretended district, but by the attorney of the trustees.

"The owners of land in above-mentioned district No. 92, by their attorney, J. J. Hickok, now offer certified copy of petition for the formation of said district and their protest to the introduction, of which the petitioners, by their attorney, object on the ground assigned in objection to paper offered by owner of district No. 90.

("The objections to Nos. 91 and 92 sustained, and exceptions taken by counsel to the ruling.)

"The trustees of Swamp Land District No. 94, above-mentioned by their attorney, J. J. Hickok, now offer in evidence the protest signed by 'J. J. Hickok, attorney for the trustees of said district No. 94,' to the introduction of which petitioners object on the ground that there is no evidence of the formation or existence of such a district as Swamp Land District No. 94, in Colusa county,

178 and that trustees cannot appear for individual owners. The board decides that trustees can so appear, to which ruling of the board petitioners except.

"After hearing the testimony and arguments of respective counsel, the board decides that no such swamp land district as Swamp Land District No. 94 exists legally, according to any evidence shown to the board, to which decision att'y for trustees excepts.

"Mrs. Ruth J. Thompson, by her attorney, J. J. Hickok, offers her protest, averring that she owns N.W. ¼ of S.W. ¼ of sec. 4, E. ½ of S. E. ¼, and S.W. ¼ of S. E. ¼ of sec. 5 in T. 13 N., R. 1 E., by certificates of purchase from the General Government, to the reception and introduction of which petitioners object, and produce evidence showing that she obtained a certificate for the land from the State register of this State; submitted and taken under advisement by the board.

179 "The remonstrants represented by J. J. Hickok, as counsel, make objections to the petition on file herein as follows, to wit:

"1st. That the petitioners do not represent ½ or more of the swamp land owners within the proposed district.

"2d. That the Reclamation Company does not act in its petition under attestation of a corporate seal.

"The objections are overruled by the board; to which ruling said remonstrants, by their attorney except.

"The whole subject-matter and question is submitted and taken under advisement by the board until ½ past 7 o'clock this evening.

"At the hour last named, the board being not yet fully advised in the premises, continues the matter under advisement and consideration until Wednesday, September 28th, 1870, at 1 o'clock p. m."

To No. 7 defendant objects:

180 1. That the copy of the minutes of the board are irrelevant and immaterial and incompetent to prove any of the matters stated therein, if such matters are material.

2. That said minutes do not appear to have been read to or approved or in any way authenticated by the board.

3. If the matters mentioned in said minutes are material, there is better evidence by which to prove them, and the said minutes are at best but secondary evidence.

8.

On the 28th September, 1870, the Board of Supervisors of Yolo county again met, when the following proceedings were made and had and entered in the minutes of said board, in manner and form following, to wit:

"WEDNESDAY, *September* 28, 1870.

181 "The Board of Supervisors of Yolo county met pursuant to adjournment; present E. Roberts and Geo. H. Swingle, of the board, and E. Bynum, clerk.

"In the matter of the petition of the Sacramento Valley Reclamation Co., Lewis A. Garnett, A. H. Rose, and Chas. F. Reed, for the formation of swamp land district in the counties of Yolo and Colusa.

"The board having heretofore taken this matter under advisement, and it appearing to the board, upon the hearing of the peti-

tion filed, that the statements therein set forth are correct, and that no land is improperly included in or excepted from said district, the petition is hereby approved this 28th day of September, 1870."

To No. 8 defendant objects:

1. That it is irrelevant and immaterial.

182 2. That the Board of Supervisors had no jurisdiction or authority under the law to make the said order, or any order, for the formation of a reclamation district, to embrace the lands described in the schedule to said petition, or any lands.

3. That the establishment and formation of a reclamation district, embracing lands in different counties, was an exercise of legislative authority and discretion which could not, under the constitution of the State, be delegated to a Board of Supervisors of one of the counties, or to any local board or officer.

4. That said board had no jurisdiction or authority under the law to include in any reclamation district the lands of this defendant, which were acquired and held by him under a Mexican colonization grant, which had been confirmed and patented by the United States.

183 5. That the said order of the said Board of Supervisors was without authority of law, and was void.

9.

On the said 28th day of September, 1870, the said Board of Supervisors of Yolo county did note and write upon the petition hereinbefore set out their approval of said petition, which approval was signed by the president of said board, and attested by the clerk of said board, and which said approval and attestation was in the words and figures following, to wit:

"STATE OF CALIFORNIA,
"*County of Yolo*, }

"The Board of Supervisors of said county having, on the 28th day of September, A. D. 1870, at a session of the Board on that day, found upon a hearing of the within petition that the statements therein set forth are correct, and that no land is improperly included or excepted from said district.

184 "It is ordered that said petition be and it is accordingly approved.

"Sept. 28th, 1870.

"E. ROBERTS,
"*President of the Board.*

"Attest: E. BYNUM, *Clerk.*

"Endorsed: Recorded in county recorder's office of Yolo county, Sept. 28th, A. D. 1870, in Book "A" of Reclamations, pages 1 to 19 inclusive, at the request of A. H. Rose. E. Bynum, recorder of Yolo county. By E. J. Giddings, deputy.

"$14.25 paid."

To No. 9 defendant objects:

1. That it is irrelevant and immaterial.

2. That the said Board of Supervisors had no jurisdiction or authority under the law to make the said order of approval, or cause the same to be endorsed on said petition.

185 3. That the formation and establishment of a reclamation district embracing lands in two or more counties, is an exercise of legislative authority and discretion, which could not, under the constitution of the State, be delegated to the Board of Supervisors of one of the counties, or to any board or officer.

4. That the said order of approval and the endorsement thereof upon the said petition was without authority of law and was void.

10.

Said petition, with the schedule annexed, and the order fixing the day of hearing and for publication, and the proof of publication, and the order of the Board of Supervisors approving said petition as aforesaid, were, on said 28th day of September, 1870, recorded by the county recorder of said Yolo county, in Book "A" of Reclamations records of said Yolo county, a book kept for the

186 purpose of recording papers relating to such reclamations, and a certified copy thereof was immediately forwarded to the register of the State land office.

To No. 10 defendant objects:

That each and every of the matters stated in No. 10 is irrelevant and immaterial.

11.

On the 4th day of October, 1870, the said register of the State land office sent to the county recorder of said Yolo county, signed by him, a certain instrument in writing, of which the following is a copy, to wit:

"STATE OF CALIFORNIA, STATE LAND OFFICE,
"SACRAMENTO, *Oct. 4th*, 1870.

"E. BYNUM, Esq., *County Recorder.*

187 "D'R SIR: I have received a copy of the petition for the formation of a swamp land district in Yolo county, signed by A. H. Rose, L. A. Garnett, and others. In accordance with law I notify you of the number of said district assigned by this office, which is No. one hundred and eight (108).

"Respectfully, J. W. BOST, *Register.*
"Per E. TWITCHELL, *Dep.*"

And the said recorder thereupon immediately numbered said petition hereinbefore set out and on record in his office, as before stated, "No. 108," since which time continuously said district has been known and designated as "Reclamation District No. 108."

To No. 11 defendant objects:

1. That the said letter or instrument was not authenticated by the seal of the State land office.

188 2. That it is irrelevant and immaterial.

12.

On the said 28th day of September, 1870, and after said approval of said petition, as aforesaid, the petitioners who made and signed said petition made and signed an instrument in writing, of which the following is a copy, to wit:

"The undersigned having presented a petition to the Board of Supervisors of Yolo county for the formation of a district for the reclamation of a body of swamp and overflowed lands situated in Yolo and Colusa counties, being part of townships 11 N., range 1 E., 11 N., range 2 E., 12 N., range 1 E., 12 N., range 2 E., 12 N., range 1 W., 13 N., range 1 E., 13 N., range 1 W., 14 N., range 1 E., 14 N., range 1 W., Mt. Diablo meridian, and being holders of certificates of purchase representing more than one half of the land

189 sought to be reclaimed, do hereby appoint Charles F. Reed, A. H. Rose, and Lewis A. Garnett, three of their number to act as a board of trustees to manage the said work of reclamation. And do also hereby ordain and establish the following by-laws to effect the said work of reclamation and keep the same in repair.

"1. Vacancies in the board of trustees shall be filled by the votes or signatures of the holders of certificates of purchase or patents representing at least one half of the land within the said district.

"2. The trustees shall keep an office during the progress of the work at Knight's Landing, Yolo county, and all books, papers, accounts, contracts, and plans shall be kept there, and be subject to the inspection of any person interested in the district, or their

190 agents and attorneys, and to the Board of Supervisors of Yolo and Colusa counties.

"3. The trustees shall cause an accurate record to be kept of all the proceedings of the board and of all their expenditures.

"4. All contracts shall be executed in duplicate and be signed by the president of the Board of Trustees, and no contract shall be valid unless approved by the board, and an entry of such approval made in their record of proceedings.

"5. Payments shall be made on warrants consecutively numbered drawn on the county treasurer and signed by the president of the Board of Trustees; but no warrant shall be issued without an order of the board entered on their minutes.

191 "The order shall designate the number and amount of the warrant, the payee, and on what account drawn.

"6. The Board of Trustees shall publish annually in a newspaper in each of the counties of Yolo and Colusa a detailed statement of their accounts during the preceding year, and of the progress and condition of the work.

"7. The trustees shall allow no indebtedness to accrue in excess of the amount of assessment levied.

"8. When the assessment lists have been filed in the office of the respective county treasurers the Board of Trustees may make an order on their minutes extending the time during which the said lists shall remain in said offices, and shall publish a notice stating the time of such extension twice in a newspaper pub-
192 lished in each of the counties of Yolo and Colusa.

"9. All persons employed shall hold their positions at the pleasure of the board, and shall be subject to their orders.

"10. A majority of the board shall have power to transact all business relating to the affairs of the district.

"11. No trustee shall receive any compensation for his services, but they shall be allowed their necessary expenses while actually engaged in the business of the district.

"12. Amendments of these by-laws may be made by the votes or signatures of the holders of certificates of purchase, or patents representing at least one-half of the land in the district sought to be reclaimed.

"Witness our hands, this 28th day of September, A. D. 1870.

193 "THE SACRAMENTO VALLEY RECLAMATION COMPANY.

"By WM. BLANDING, *President.*
"LEWIS A. GARNETT.
"A. H. ROSE.
"CHAS. F. REED."

And which said instrument was on the said 28th day of September, 1870, recorded by the county recorder of said Yolo county, in said Book "A," hereinbefore specified, and immediately following the record of said petition.

To No. 12 defendant objects:

1. That the said paper is irrelevant and immaterial.
2. That it does not appear in the case that the said petitioners were holders of certificates of purchase, or patents for one-half the lands described in the schedule attached to their petition, or were authorized or empowered, under the law, to appoint trustees, or adopt, or establish by-laws.
194 3. That the said petitioners had no authority, or power under the law to adopt by-laws, or elect, or appoint trustees, and their acts in that regard were void.

13.

Thereafter, on said 28th day of September, 1870, the Board of Trustees of said Reclamation District No. 108, elected A. H. Rose president of said board; and said A. H. Rose, L. A. Garnett, and

Charles F. Reed have ever since continued to be said board of trustees; and said A. H. Rose has ever since continued to be the president of said board.

14.

On the said 28th day of September, 1870, and after the organization of said board of trustees of said district, said board of trustees prepared, signed, and presented to the Board of Supervisors of said Yolo county, and to the Board of Supervisors of said Colusa
195 county an instrument in writing, of which the following is a copy, to wit:

"To the Boards of Supervisors of Yolo and Colusa counties:

"The undersigned the Board of Trustees of the district formed for the reclamation of the swamp and overflowed lands on the west bank of the Sacramento river, being in the counties of Yolo and Colusa, respectfully report the following as the plans of the work and estimates of the cost, together with estimates of the incidental expenses of superintendence, repairs, &c.

"The plans and estimates have been prepared by Mr. John D. Hoffman, civil engineer, from actual instrumental surveys with the advice of Gen'l B. L. Alexander, of the United States engineer corps.

"*Plan.*

196 "To close all the sloughs which discharge the surplus water of the Sacramento river into the district by substantial dams, and connect by levees from the mouth of the Upper Sycamore slough to Knight's Landing, a distance of forty and eighty-four-hundredths (40.84) miles, so as to prevent any water from the Sacramento river from flowing upon the land.

"*Dams.*

"There are five dams, viz: At the mouths of upper Sycamore slough, Wilkins slough, Bear slough, Lower Sycamore slough, and Cache creek, or Dry slough.

"Their height is calculated so that after settling (for which one-fifth of the whole height is allowed) their crowns will be a little over one foot above highest water of the river. Their width on the crown is equal about to their height in the middle, except
197 the Lower Sycamore slough dam, which is twenty (20) feet wide, and slope on both sides one foot to three feet base.

"The Upper and Lower Sycamore sloughs or dams are provided with sluice-ways, six feet by six feet, with gates, that at the upper being set midway between high and low-water mark, and that at the lower at low water level.

"For the Lower Sycamore slough is also designed two rows of sheet piling, piles twelve inches square, rows ten feet apart, properly framed and coming up to low-water level.

"Wilkins Slough dam is located directly west of the old dam, in such manner that the remnants of the latter may be utilized.

"*Levees.*

"They are calculated with a crown two feet above the
198 highest water mark, except when a greater allowance for settling is required, for instance across the neck of Bullock's bend, where the calculation is the same as for dams.

"Width of levees on crown is three feet throughout, except at Bullock's bend, where the width of the crown is equal to the height in the middle of the levee; land side slope, 1 foot to 2 feet base; river side slope, 1 foot to 3 feet base.

"The heights of the levee are calculated for a distance of about sixty feet from the river bluff, and its length is given in the table of distance hereto annexed, about forty and eighty-four hundredth ($40\frac{84}{100}$) miles.

"For this whole length, the average height of the levee is three and nine-tenths ($3\frac{9}{10}$) feet.

"Several small inlets have not been specially considered, for the additional work on these will be fully compensated by the
199 saving on several Indian mounds, the lengths of which have not been deducted.

"The average price for the earthwork will fully cover the greater cost of the work on the higher parts of the levee and dams. Also all the necessary cutting of brush, grubbing and thorough preparation of the ground to receive the embankments.

"The maps and plats showing the details of the work will be deposited in the office of the board of trustees, which, by the by-laws of the district, is located at Knight's Landing.

Earthwork.

		Cubic Yards.
"Main dam at Upper Sycamore slough		3,546.79
"Levee from Upper Sycamore slough to Wilkin's Slough,		101,190.82
Wilkin's Slough:		
"North wing	1,948.56	
"Main dam	5,083.31	
"South wing	1,966.47	
		8,998.34
200 "Levee from Wilkins slough to Bear slough		311,323.63
"Bear slough dam		2,514.08
"Levee from Bear slough to Lower Sycamore dam		14,251.87
"Dam at Lower Sycamore, north wing	3,144.30	
"Main dam	10,391.20	
"South wing	4,495.51	
		18,031.01

"Levee from Lower Sycamore dam to Cache Creek slough 1,181.61
"Dam at Cache Creek slough 494.89

461,533.04

"*Woodwork.*

"At Lower Sycamore Slough.

"160 piles, 12x12, 25 feet average length, and driving same.
"4,000 f't Oregon pine, 8x12, string pieces and framing.
"Sluice box.
"Redwood plank, 22,000 f't.
" " posts, 1,800 f't.
"Oregon pine, 1,500 f't.
"And framing.
"Gate.

201 "At Upper Sycamore Slough.

"Sluice box.
"Redwood plank and posts, 17,000 f't.
"Oregon pine, 1,000 f't.
"And framing.
"Gate.

Estimate

"Of the foregoing earthwork, woodwork, together with the incidental expense of right of way and materials for construction, engineering, superintendence, repairs, &c., $140,000.

"Respectfully submitted.

"Sept. 28th, 1870.

"LOUIS A. GARNETT,
"A. H. ROSE,
"CHA'S F. REED, *Trustees.*"

Which was on said day filed by the clerk of said Board of Supervisors of Yolo county, and endorsed as follows, to wit:

202 "Endorsed: Filed September 28th, 1870. E. Bynum, clerk, by J. L. Simpson, deputy."

And was thereafter filed and endorsed by the clerk of the Board of Supervisors of said Colusa county, in like manner.

To No. 14 defendant objects:

That the said instrument, or said plan, specifications and estimates are irrelevant and immaterial, the said Rose, Garnett, and Reed having no power or authority to act as trustees, or to make or present plans or estimates.

15.

On the 11th day of November, 1870, the said Board of Supervisors of Yolo county, and the said Board of Supervisors of Colusa

county, at regular meetings of said respective boards, made and caused to be entered on their respective minutes of pro-
203 ceedings certain recitals and an order, of which the following is a copy, to wit:

"In the matter of Reclamation District No. 108.

"The trustees of said district having filed plans of the work of reclamation and estimates of the cost, together with estimates of the incidental expense of superintendence, repairs, &c., and now asking the board to appoint three commissioners to view and assess upon each and every acre of land to be reclaimed or benefited, a tax, according to the statute in such case made and provided.

"It is ordered that William Minis and J. M. Kelly, of the county of Yolo, and W. F. Goad, of the county of Colusa, be, and the same are hereby, appointed such commissioners of assessment.

"And it is further ordered, that the clerk of this board furnish each of said commissioners with a copy of this order without delay."

To No. 15 defendant objects:

204 1. The orders of said Board of Supervisors were without jurisdiction or authority of law, and void.

2. They were in effect the exercise of the power of taxing the inhabitants and property owners within the territory denominated Reclamation District No. 108, without their assent.

3. They were in effect the exercise of the power to impose taxes upon the inhabitants and property owners of the said district which could not be delegated by the Legislature to one or both said boards, and were unconstitutional and void.

16.

Thereupon a copy of said last-mentioned order duly certified by said clerks of said Boards of Supervisors was furnished said commissioners who made, took, and subscribed thereupon their
205 several oaths of office as such commissioners, and filed the same in the proper office.

To No. 16 defendant objects, that it is irrelevant and immaterial.

17.

Afterwards, in the months of December, 1870, and January, 1871, said commissioners did jointly view and assess upon each and every acre of the lands of said district to be reclaimed or benefited a tax proportionate to the whole expense, and to the benefits which would and will result from the works of said reclamation, which said assessment amounted in the aggregate to said sum of $140,000, and on the 14th day of January, 1871, thereafter, filed with the county treasurer of said Yolo county a list of the amount due
206 from each owner of land in said district situated in said Yolo county, and on the 20th day of January, 1871, also filed with

the county treasurer of said Colusa county a list of the amount due from each owner of land in said district, situated in said Colusa county, as the law provided.

To No. 17 defendant objects

That the acts of said commissioners, in making the said assessment and the other acts stated, were without authority of law, and were void.

18.

On the 4th day of October, 1875, the said original tax, so assessed and levied as hereinbefore stated, was found to be, and was, insufficient to provide for the complete reclamation of the said lands in said district, and thereupon the trustees of said district, on said 4th day of October, 1875, prepared and presented to the Board
207 of Supervisors of said Yolo county a statement in writing, signed by them, said trustees, of which the following is a copy, to wit:

"To the Honorable the Board of Supervisors of Yolo county, State of California:

"The undersigned, trustees of Reclamation District No. 108, submit the following statement of work done under their direction for the reclamation of the lands in said district since its organization:

"A levee has been constructed on the west bank of the Sacramento river, from Knight's Landing, in Yolo county, to the upper Sycamore slough, in Colusa county, so as to prevent any water from the Sacramento river from flowing upon said lands, and the same is of sufficient strength and capacity for the purpose contemplated.

"Dams have been constructed at the mouth of the Upper
208 Sycamore slough, Wilkin's slough, Bear slough, Lower Sycamore slough, and Cache creek or Dry slough, of the character proposed in the original plan submitted to your honorable board.

"All work and improvements contemplated by said original plan has been fully performed.

"The orignal assessment was and is insufficient to provide for the complete reclamation of the lands of the district, according to the original plan thereof, and a further assessment is necessary and required to provide for the payment thereof, not including the expenses of the future protection, maintenance, and repair thereof, which cannot now be clearly ascertained and stated, and in respect to such further assessment as is herein requested to be ordered, the following facts are submitted.

"The cost of the above-mentioned work, not including the cost of the future protection, maintenance, and repairs of the
209 said reclamation works in said district, or of the future incidental expenses necessarily incurred in connection therewith, amounts to the sum of $352,553.

"The assessment heretofore levied, including interest on delinquent assessments, for which an assessment is now asked, amounts to $192,046, gold coin.

"Wherefore the undersigned trustees of said District No. 108 respectfully pray your honorable board to make an order directing the commissioners to be appointed in such order to levy an assessment on the lands embraced therein for the said sum of one hundred and ninety-two thousand and forty-six dollars, ($192,046,) gold coin of the United States.

"Respectfully submitted,

"A. H. ROSE.
"LOUIS A. GARNETT.
"CHAS. F. REED."

210 Which was filed and endorsed by the clerk of said board, in the words and figures following, to wit:

"Endorsed: Filed October 4th, 1875. D. Schindler, clerk. By D. M. Burns, dep."

To No. 18 defendant objects:

1. The said statement is irrelevant and immaterial.

2. The said board of trustees had no authority under the by-laws of the district to create any indebtedness in excess of the assessment levied, and all their acts in creating the indebtedness shown by the said statement were in violation of the said by-laws and without authority of law, and void.

3. The said indebtedness so created was not a legal charge
211 against the said Reclamation District No. 108.

4. The said indebtedness was created and the said statement was presented to said Board of Supervisors without notice to or the assent of the inhabitants or property-owners of said district.

5. Nearly all said indebtedness was at that time barred by the provisions of subdivision 1 of section 339 of the Code of Civil Procedure of the State of California.

6. A large part of the said indebtness was then barred under the provisions of section 337 of the Code of Civil Procedure of the State of California.

7. A part of said indebtedness was created for purposes not authorized.

19.

212 Thereupon the said Board of Supervisors of said Yolo county, at a regular meeting of said board, proceeded to consider said last-mentioned report or statement, and the following proceedings were by them had and done and then and there entered upon their minutes, in manner and form following, to wit:

"In the Board of Supervisors of Yolo County, California. In the Matter of Reclamation District 108.

"The trustees of said district having said day presented to the board a statement of the work of reclamation done therein and a statement of its cost, praying that this board make an order directing the appointment of three commissioners to assess the amount of one hundred and ninety-two thousand and forty-six dollars gold coin ($192,046) as a charge upon the lands within said district.

"It is therefore ordered that Wm. Minis and J. M. Kelly,
213 of the county of Yolo, and Moses Stinchfield, of Colusa county, be, and they are hereby, appointed commissioners in said district, and they are directed to assess the amount of one hundred and ninety-two thousand and forty-six dollars gold coin as a charge on the lands within the said district, in the manner provided by law.

"GEO. H. SWINGLE,
"*President Board of Supervisors of Yolo Co., Cal'a.*
"Attest: "D. SCHINDLER, *Clerk.*
"By D. M. BURNS, *Dep'y.*"

To No. 19 defendant objects that—

1. The order of said Board of Supervisors was without jurisdiction or authority of law and was void.

2. It was an exercise of the power of taxing the inhabitants and property owners of said district without their assent or notice to them, and the exercise of a power which could not be lawfully delegated to said board.

214 3. It was in effect levying a tax in gold coin for the payment of an indebtedness payable in lawful money, and was for that reason unconstitutional and void.

4. It was levying a tax for the payment of an indebtedness which was barred by the statute of limitations.

20.

Thereupon a copy of said last-mentioned order, duly certified, was furnished said last-mentioned commissioners who made, took, and subscribed thereupon their several oaths of office as such commissioners and filed the same in the proper office.

To No 20 defendant objects that it is irrevalent and immaterial.

21.

Afterwards and before the 3d day of February, 1877, the
215 said last-mentioned commissioners acting as such commissioners jointly viewed and assessed a tax and charge upon the lands of said district of $2.73 per acre, amounting in the aggregate to the sum of $192,046, and made a list of the charges by them so assessed upon and against each tract of said lands in said dis-

trict; and on the 3d day of February, 1877, filed said list with the county treasurer of said Yolo county, and on the 5th day of February, 1877, also filed a copy of the same duly certified by them (said commissioners) in the office of and with the county treasurer of said Colusa county, of which said list the following so far as it relates to the tax or assessment or charge sought to be recovered in this suit is a correct copy (omitting the assessments on all other lands in said district, which were also embraced in said list), to wit:

216 "*List of the Charges assessed against the Lands in Reclamation District No.* 108, *situated in Yolo and Colusa Counties, State of California.*

Township.	Range.	Section.	Subdivision of section.	Number of acres in each tract.	Names of owners of each tract.	Charge assessed per acre.	Amount of charges assessed against each tract.
						$cts	
13 N.	1 E.	2	West ½ Southeast ¼	480	George Hagar		$1,314 64
"	"	3	North ½ Southeast ¼	559.20	"		1,531 56
"	"	3	East ½ of S. W. ¼				
"	"	10	East ½ East ½ of Southwest ¼	400	"		1,095 54
"	"	11	West ½ Northeast ¼	560	"		1,533 75
"	"	11	West ½ of S. E. ¼				
"	"	14	Northwest ¼	160	"		438 21
"	"	15	Whole	640	"		1,752 86
"	"	16	East ½ of Southeast ¼	80	"		219 11
"	"	21	East ½	320	"		876 43
"	"	22	West ½				
"	"	22	West ½ of N. E. ¼	480	"		1,314 64
"	"	22	West ½ of S. E. ¼				
"	"	27	West ½				
"	"	27	West ½ of S. E. ¼	480	"		1,314 64
"	"	27	West ½ of N. E. ¼				
"	"	28	East ½	320			876 43
"	"	33	East ½	320	"		876 43
"	"	34	West ½	320	"		876 43

" Witness our hands, this 3d day of February, A. D. 1877.

217 "J. M. KELLY,
"WM. MINIS,
"MOSES STINCHFIELD.
"*Commissioners of Assessment.*"

To No. 21 defendant objects, that—

1. The acts of said commissioners in making the assessments and lists, and all their acts in connection therewith, were without authority of law, and void.

2. The said assessment was void, because—

First. It was made for the payment of an indebtedness, contracted by said trustees in violation of the by-laws of said district.

Second. It was made in part for the payment of an indebtedness contracted by said trustees for services of attorneys other than the district attorneys of the counties of Yolo and Colusa, in actions of the courts of the State for the enforcement of the original assessment.

Third. It was made without notice to, or the assent of, the
218 inhabitants or property holders of said district.

Fourth. It was made in gold coin of the United States.

Fifth. It was made upon and included lands that were not and could not be benefited by the works of reclamation.

Sixth. It was made for the payment of an indebtedness which was at the time of the assessment barred by the provisions of the statute of limitations.

Seventh. It was not equalized by the said commissioners or any other board, officer, or tribunal.

Eighth. It impaired the obligation of contracts.

Ninth. It was a taking of the property of the inhabitants and property holders of said district, and particularly of the defendant, without due process of law.

Tenth. It was the exercise of the taxing power by an irresponsible board to whom such power could not lawfully be delegated.

Eleventh. The said assessment was not made in propor-
219 tion to the benefit to be derived from the works of reclamation constructed in said district.

Twelfth. The land was not assessed to the party who owned and had been in the continuous and actual possession since the year 1870.

22.

The said last mentioned list so filed in the office of the county treasurer of Yolo county as before mentioned, remained in the office of said treasurer for the period of thirty days, and for the additional period of down to and including the 31st day of March, 1877, under the order and direction of said Board of Trustees of said district, and thereafter, to wit, on the 2d day of April, 1877, was then returned to the district attorney of said Yolo county, and said copy of said list remained in the office of the said county
220 treasurer of said Colusa county for a like period, and was thereafter on said 2d day of April, 1877, returned to the district attorney of said Colusa county.

23.

The tracts of land alleged in the bill of complaint herein to have been assessed to the defendant, and which were included and contained in the last-mentioned lists, are situated in said Colusa county, and in said Reclamation District No. 108, and that defend-

ant was at the date of said assessment, and still is, the owner of the same, and was such owner thereof at the date of the commencement of this suit, and that no part of said assessed amounts or charges has been paid.

24.

That Jackson Hatch, at the date of the commencement of this suit was the duly elected, qualified, and acting district attor-
221 ney of Colusa county aforesaid, and has been ever since.

Second. Statement of Facts on the part of the Defendant

1.

Defendant's lands are parcel of a Mexican colonization grant of eleven leagues of land, made in the year 1844 by the Mexican Government to one Manuel Jimeno, a Mexican citizen, and afterwards and prior to the year 1870, to wit, on the 18th day of July, 1862, confirmed and patented by the United States to Thomas O. Larkin and John S. Missroon, the grantees of said Jimeno, under whom this defendant deraigns and holds title in fee to the said lands, and that said State of California never had at any time, or claimed to have, any right, title, or interest in or to said defendant's said lands, or any part or parcel of the same, and the same were never by or under the authority of said State surveyed, or segregated, or
222 declared to be swamp or overflowed lands.

On the trial and hearing of this cause, the complainant interposes objections to the "statement of facts on the part of Defendant," contained in the "agreed statement of facts," marked "Exhibit A," filed herein, and to the admission thereof in evidence, as follows, to wit:

To all of sub-division No. 1 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3d. That the portion thereof which tends to show that defendant's lands were never, by, or under the authority of said State of California, surveyed or segregated, is incompetent and inadmissible in this, to wit: It is an improper attempt to prove in this suit, what must necessarily have been determined otherwise by
223 the Board of Supervisors of Yolo county, (in their order of the 28th day of September, 1870, approving the petition asking for the formation and establishment of said Reclamation District No. 108,) if such survey and segregation, or either of them, were necessary to have been made, and said order cannot be impeached or contradicted in a collateral proceeding of this nature.

2.

Of the lands described in the schedule attached to said petition, about fifty thousand four hundred and forty-one $\frac{19}{100}$ acres, including all the forty-two thousand two hundred and seventy-nine $\frac{87}{100}$ acres claimed by said petitioners, were lands granted to the State of California, under and by the act of Congress of September 28th, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," the
224 larger part of which had been prior to that date, under her laws, sold by the State to private parties; and of the lands so embraced, fifteen thousand six hundred and forty-four and $\frac{63}{100}$ acres, including the lands of this defendant, were parcel of the said Mexican grant, and about eight thousand acres were lands sold and patented as high lands by the United States to pre-emption settlers at private entry.

To all of subdivision No. 2 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3.

The said sum of $192,046, for which the said assessment was levied, was an indebtedness contracted by the trustees of said district prior to the 4th day of October, 1875, in excess of, and over and
225 above, the original assessment of $140,000; the larger portion of which indebtedness was contracted in the years 1871 and 1872, and nearly all of it prior to the 1st day of July, 1874; and more than $10,000 of it was for the services of attorneys other than the district attorneys of the counties of Yolo and Colusa, in prosecuting actions for the enforcement of said original assessment in the courts of the State of California, and that no part of said indebtedness was contracted to be paid in any specified kind of money.

To all of subdivision No. 3 of said "Statement of Facts on the part of defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3d. That the portion of said subdivision tending to show that "more than $10,000 of it" (meaning the indebtedness of
226 $192,046, therein mentioned) "was for the services of attorneys other than the district attorneys of, etc.," is incompetent and inadmissible, in this, to wit: The *nature* of all of said indebtedness was necessarily determined by the trustees of said Reclamation District No. 108 (in their statement in writing presented to the Board of Supervisors of Yolo county, on the 4th day of October, 1875, asking that commissioners be appointed to assess the lands of said dis-

trict) to have been proper, and as such as the law under which they acted contemplated; and the same must also necessarily have been determined by said Board of Supervisors in making their order of October 4th, 1875, appointing the commissioners of assessment, and directing them to assess said sum upon said lands; and neither the said trustees' determination of that matter, nor the said order of said Board of Supervisors can be contradicted or impeached in this suit.

227 4.

The statement made by the Board of Trustees of said district to the supervisors of Yolo county, on the said 4th day of October, 1875, showing an indebtedness of said $192,046, and the order of said Board of Supervisors, appointing said Minis, Kelly, and Stinchfield commissioners to assess the same, and directing them to assess the said amount in gold coin, as a charge on the lands within said district, and the assessment of the same by the said commissioners, as a charge upon the said lands, were, and each and all made and done, without notice to this defendant.

To all of subdivision No. 4 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

228 5.

The said assessment of said sum of $192,046, as a charge upon the lands within said district, and of the said sum of $14,020.67, parcel of said sum, upon the lands of this defendant, was never equalized by the said commissioners, or any other board, tribunal, or officer.

To all of subdivision No. 5 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

6.

The defendant's said lands were surveyed and returned by the United States, at the dates, and as shown by the following certified copies of the plats of such surveys, approved ~~by the United States surveys~~ and, certified by the United States Surveyor General for the State of California.

229 To all of subdivision No. 6 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3d. That they are and each of them is incompetent and inadmissible, in this, to wit: All the lands embraced within the boundaries of Reclamation District No. 108, as fixed by the petition asking for the establishment and formation of said district, were by the order of the Board of Supervisors of Yolo county, approving said petition, and establishing said district, necessarily determined by said board, in its said order of approval, to be swamp and overflowed lands; and if it was necessary that said lands should have been, before that time, surveyed and sectionized, then said board, by its said order of approval of said petition must also necessarily have determined and decided that said land had all been so surveyed and sectionized; and such determination and decision of said Board of Supervisors, as to either of said matters, cannot be impeached nor contradicted in this suit.

230

7.

Reclamation District No. 108 is situated in the lower portion of a natural water shed, sixty miles in length from north to south, and about twenty-five miles in average width, said water shed containing an area of about fourteen hundred square miles, and which is bounded on the south by a ridge extending from the Sacramento river at Knight's Landing, in Yolo county, westwardly to the foot hills; on the east by the west bank of the Sacramento river; on the north by a ridge of land along Stony creek, in the northern part of Colusa county; and on the west by the summit of the Coast range of mountains.

231

Through the whole length of said water shed, at an average distance of about three miles back, or westerly, from said river, there is a depression of varying width, and from five to fifteen feet lower than the bank of the river. The slope from the river bank to the center of this depression being gradual, and the depression from north to south, and being greatest about eight miles northerly from the southern boundary of said water shed, and through this depression all the drainage of said water shed, and all the water which flows out from the Sacramento river through sloughs and over its banks naturally flows.

The Lower Sycamore slough was, before the construction of the works of Reclamation District No. 108, about one hundred feet in width and twenty feet deep, and was the only outlet or place of discharge for the drainage of said water shed and the water accumulating in said territory, designated as such water shed, from the overflow of said Sacramento river. The annual rain fall in said water shed varies from a minimum of about five inches to a maximum of thirty-six inches of water, with an average of about sixteen inches, the greater portion of which falls between the first day of December and the first of April. And the water shed is about twenty-two feet above the level of high tide in Suisun bay.

232

To all of subdivision No. 7, of said "Statement of Facts on the part of Defendants," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3d. That they are and each of them is incompetent and
233 inadmissible in this, to wit, it is an improper attempt in a collateral proceeding to show that the reclamation of the lands embraced within said Reclamation District No. 108, was, and is impossible; and that, therefore, said lands have not been, and cannot be, benefited by the works of reclamation therein, and to thus contradict and impeach the said order of the Board of Supervisors of Yolo county, made on the 28th day of September, 1870, approving the petition asking for the formation of said district, which order, among other things, determined that the reclamation of said lands was feasible.

It is also further incompetent and inadmissible in this, to wit, it is an improper attempt to impeach and contradict the original assessment made in said district, and the conclusions, judgment, and acts of the commissioners of assessment who made said
234 original assessment; and to contradict and impeach the assessment upon which a recovery is sought in this suit, and the conclusions, judgment, and acts of the commissioners who made the said last-mentioned assessment.

It is also further incompetent and inadmissible, in this, to wit, it is an improper attempt to contradict and impeach the report in writing of the trustees of said Reclamation District No. 108, of the plans of the work of reclamation in said district presented to the Board of Supervisors of Yolo county, and the Board of Supervisors of Colusa county on the 28th day of September, 1870, and to impeach and contradict the orders of each of said boards of supervisors thereupon made, appointing commissioners to assess upon said lands the amount stated in said trustees' report to be necessary for said work of reclamation.

8.

235 That said lands of the defendant and the lands in said reclamation district vary in quality and value, and of the lands equally exposed to overflow, some parcels are valuable, of fine quality for cultivation, while others are of a poor quality and of little value.

To all of subdivision No. 8, of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

3d. That they are and each of them is incompetent and inadmissible, in this, to wit: it is an improper attempt to contradict and impeach the assessment upon which a recovery is sought in this

suit, by showing that the commissioners of assessment who
236 made the same *erred in their judgment* and conclusions in determining that each tract of land by them assessed was benefited by said works of reclamation, and properly chargeable with the amount severally assessed against and upon them, as returned by said commissioners in the assessment list, by them filed with the county treasurer of said Yolo county, on the 3d day of February, 1877; and in the certified copy thereof filed by them with the county treasurer of Colusa county on the 5th day of February, 1877.

Since the establishment of the said Reclamation District No. 108 and the construction of the said levee, the State of California has repaid to the said petitioners the full amount of the purchase-money paid by them to the State for the lands claimed by them.

237 To all of subdivision No. 9 of said "Statement of Facts on the part of Defendant," complainant objects:

1st. That each and all of the matters therein stated are irrelevant.

2d. That they are and each of them is immaterial.

W. H. L. BARNES,
W. L. HATCH,
JACKSON HATCH AND
A. C. ADAMS,
Solicitors for Complainant.
W. C. BELCHER AND
J. S. BELCHER,
Solicitors for Defendant.

Endorsed: Filed January 14th, 1880. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep'y cl'k.

238 (Here follows map marked page 238.)

239 *Deposition of J. P. Bullock.*

Circuit Court of the United States, District of California.

RECLAMATION DISTRICT NO. 108 *vs.* GEORGE HAGAR. } 1819.

Be it remembered that on this 14th day of January, A. D. 1880, at my office in the city and county of San Francisco, State of California, before me, J. F. O'Beirne, an examiner in chancery, duly appointed by the circuit court of the United States, for the ninth circuit and district of California, personally appeared J. P. Bullock, C. Bielawski, H. E. Cook, and William J. Clark, witnesses on behalf of defendant in the above-entitled action.

A. C. Adams, Esquire, appeared as counsel on behalf of complainants, and W. C. Belcher, Esquire, as counsel on behalf of defendants.

And the said witnesses having been by me first duly sworn
240 to tell the truth, the whole truth, and nothing but the truth

in the cause aforesaid, did then and there depose and say, as follows, that is to say:

Examination-in-chief of J. P. Bullock.

By Mr. BELCHER:

Question 1. Mr. Bullock, do you know the land in Reclamation District No. 108, in Yolo and Colusa counties?

Answer. I do.

Q. 2. Do you know the lands of the defendant, Hagar, in Yolo county?

A. Very well.

Q. 3. And also his land in Colusa county?

A. Yes, sir.

241 Q. 4. How long have you known the lands of the defendant, Hagar, in Yolo county?

A. Since the 4th day of August, 1851.

Q. 5. And have been intimately acquainted with them since that time?

A. Yes, sir.

Q. 6. State whether or not those lands or any of them in Yolo county have received any benefit or been benefited in any way by the works of reclamation constructed in that district by Reclamation District 108?

(The complainant objects to the interrogatory and the answer thereto upon the following grounds, to wit:

First. That said interrogatory and the answer thereto are and each of them is irrevelant.

Second. That they are and each of them is immaterial.

242 Third. That said interrogatory and the answer thereto are and each of them is incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the order of the Board of Supervisors of Yolo county approving the petition asking for the formation of Reclamation District No. 108, made by said board on the 28th day of September, 1870, allowing the formation and establishment of said district, which order of approval establishing said district cannot be impeached or contradicted in this manner, nor in this suit, nor is it subject to any collateral attack.

Fourth. That said interrogatory and answer thereto are, and each of them is, further incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the original assessment made in said Reclamation District No. 108, and the conclusions, judgment and acts of the commissioners of assessment who

'3 made said original assessment, and to contradict and impeach the assessment made subsequent to said original assessment,

it: The assessment upon which a recovery is sought against defendant in this suit, and the conclusions, judgment, and acts ie commissioners who made said last-mentioned assessment,

none of which can be attached collaterally in this manner, nor at all.)

A. George Hagar owns in Yolo county ten thousand two hundred and forty-eight acres and a fraction. There have been about six or seven hundred acres benefited; the balance has been damaged materially. The reason of this is the levees upon the river produce a *seepagé* on the front lands, thereby rendering them unfit for cultivation, that portion which could be and was cultivated prior to that time. The evidence I have given applies to the ten thousand acre tract in Yolo.

244 Q. 7. State whether or not these lands, or any of them in Colusa county have received benefit or been benefited in any way by the works of reclamation constructed in that district by Reclamation District No. 108?

(The complainant objects to interrogatory No. 7 and the answer thereto, upon the same grounds and with the same assignments as those made and assigned in relation to interrogatory No. 6.)

A. The greater portion of the lands in Colusa county included in Reclamation District No. 108, are damaged by reason of the works erected by the Reclamation District No. 108. The orchard lying immediately upon the bank has been almost ruined by reason of the reclamation, it having prior to the reclamation been a very valuable orchard. The reclamation has caused the *seepagé* water
245 to rise on the land which has killed three-fourths of the fruit trees. The land was valued and sold at one time at the rate of seventy dollars an acre, and the rents and profits arising from it amounted to some five thousand dollars annually. It now rents for six hundred dollars. It contains a little over one hundred and sixty acres.

I have livedthere, say twenty-eight years, upon the bank of that river, and known it intimately, and Yolo county prior to the erection of the works, with the exception of three years; the river hardly ever filled its natural banks, and we had to cut those natural banks to let the water out upon our orchards and agricultural land to the depth of two feet and a half; whereas now, since the levee was constructed, the river stands on an average three feet and a half upon the levees above the natural bank caused
246 by reason of filling up the natural outlet of the river, and confining it within its banks.

Q. 8. State whether or not the construction of these works has had any effect upon the health of the country lying immediately to the south and the west of this district, Reclamation District No. 108?

(Complainant objects to interrogatory No. 8, and the answer thereto, upon the following grounds, to wit:

First. That the said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are, and each of them is, immaterial, and that the testimony tends in no manner to prove any issue in the case.)

A. Well, it has been a good deal sicklier since those reclamation works were put in than it was prior to that time; intermit-
247 tent and typhoid fever being prevalent, malarial diseases.

Q. 9. State what is the effect upon this district as formed, in seasons of average rain-fall from the ~~improving~~ of the natural drainage of the water shed in which it is situated.

(The complainant objects to interrogatory No. 9 and the answer thereto, upon the following grounds, to wit:

First. That said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are and each of them is immaterial.

Third. That said interrogatory and the answer thereto are, and each of them is, incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the order of the Board of Supervisors of Yolo county, approving the petition asking for the formation of Reclamation District No. 108, made by said
248 board on the 28th day of September, 1870, allowing the formation and establishment of said district, which order of approval establishing said district cannot be impeached or contradicted in this manner nor in this suit, nor is it subject to any collateral attack.

Fourth. That said interrogatory and the answer thereto are, and each of them is, further incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the original assessment made in said Reclamation District Number 108, and the conclusions, judgment, and acts of the commissioners of assessment who made said original assessment, and to contradict and impeach the assessment made subsequent to said original assessment, to wit: The assessment upon which a recovery is sought against the defendant in this suit, and the conclusions, judgment, and acts of the
249 commissioners who made said last mentioned assessment, none of which can be attached collaterally in this manner, nor at all.)

A. The water-shed in the average rain fills the basin and is there held; in extraordinary seasons it rises higher in the district some three feet than ever known prior to the reclamation works having commenced, by reason of the outlet having been stopped up, which holds the water and backs it up in the district to such a height that we were compelled to cut the levees, it being three to four feet higher in the district than it was in the river, in order to let it out, and keep it from washing away our private dwellings and barns, after it had already carried away all of our fences.

(No cross-examination.)

250 *Deposition of C. Bielawski.*

Examination-in-chief of C. Bielawski.

By Mr. BELCHER:

Question 1. What is your business?

Answer. I am draughtsman in the United States General Surveyor's office.

Q. 2. For how long a time have you been employed there?

A. Since 1854.

Q. 3. You are familiar, then, with the business of that office?

A. Yes, sir.

Q. 4. State, examining those plats where the dotted lines are drawn in colors, why they are thus drawn, and what they signify?

251 (Complainant objects to interrogatory No. 4, and the answer thereto, upon the following grounds, to wit:

First. That said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are, and each of them is, immaterial.

Third. That said interrogatory and the answer thereto are, and each of them is, incompetent and inadmissible in this, to wit, it is an attempt to contradict and impeach the order of the Board of Supervisors of Yolo county approving the petition asking for the formation of Reclamation District No. 108, made by said board on the 28th day of September, 1870, allowing the formation and establishment of said district; which order of approval establishing said district cannot be impeached or contradicted in this manner nor in this suit, nor is it subject to any collateral attack.)

252 A. I will answer that the lines dotted black, or the section lines, were not surveyed by the United States surveyor, and the lines dotted red show the legal subdivision lines of the land subject to an annual overflow. These legal subdivision lines were never surveyed—not on this map. They were made in the office.

Q. 5. Along the westerly border of what is marked on the plat T. 11 N., R. 2 E., lot No. 37, there are little dots marked along there, following the lines; state what those dots are for and what they signify.

(The complainant makes the same objection and assigns the same grounds as to interrogatory No. 4.)

A. These dots show the meander lines of the bank of Sycamore Slough.

253 Q. 6. Turning to plat of T. 13 N., R. 1 E., a portion of the map at the bottom is colored green, and on the northerly boundary of the part so colored also a dotted line; what does this green color and the dotted lines signify?

(The complainant makes the same objection, and assigns the same grounds as to interrogatory No. 4.)

A. The green color signifies the swamp and overflowed land unfit for cultivation—tule land, and the dots on the black line on the north of this swamp indicate the south edge of the agricultural land, and that is the meander line around the edge of the swamp; the same color indicates swamp and overflowed land on all these plats; and the dots which follow along the margin of the
254 green signify also meander lines as shown by the survey.

(No cross-examination.)

Deposition of H. E. Cook.

Examination-in-chief of H. E. Cook.

By Mr. BELCHER:

Question. You are the defendant in the action of Reclamation District No. 108 *versus* Sacramento Valley Reclamation Co. and Henry E. Cook?

Answer. Yes, sir.

Q. 2. You know the lands involved in the action against yourself—the east half and the east half of the west half of section 24, and also the lands involved in the suit of Reclamation District No. 108 against William J. Clark?

255 A. Yes, sir.

Q. 3. How long have you known them?

A. Well, I have known those lands about fifteen years, I think.

Q. And have been in actual occupation of the lands involved in the suit against yourself and Sacramento Valley Reclamation Company for about how many years?

A. Nine years.

Q. 5. State what effect, if any, has been produced upon your lands and those of Mr. Clark by the construction of the reclamation works or the levee along the bank of the Sacramento river by Reclamation District No. 108?

(Complainant objects to interrogatory No. 5 and the answer thereto, on the following grounds, to wit:

256 First. That said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are, and each of them is, immaterial.

Third. That said interrogatory and the answer thereto are, and each of them is, incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the order of the board of Yolo county, approving the petition asking for the formation of Reclamation District No. 108, made by said board on the 28th day of September, 1870, allowing the formation and establishment of said district, which order of approval, establishing said district, cannot be impeached or contradicted in this manner nor in this suit, nor is subject to any collateral attack.

Fourth. That the said interrogatory and the answer thereto are,

and each of them is, further incompetent and inadmissible in
257 this, to wit: It is an attempt to contradict and impeach the original assessment made in said Reclamation District No. 108, and the conclusions, judgment, and acts of the commissioners of assessment who made said original assessment, and to contradict and impeach the assessment made subsequent to said original assessment, to wit: The assessment upon which a recovery is sought against the defendant in this suit, and the conclusions, judgment, and acts of the commissioners who made said last-mentioned assessment, none of which can be attacked collaterally, nor at all.)

A. When the floods come—heavy floods—it raises the water by backing up from the levees 3 or 4 feet higher than it ever did before the levees were there. I consider the lands have not been benefited by the levee at all, but materially injured.

258 Q. 6. What effect has the construction of these reclamation works produced on the health of the country lying to the westward of the reclamation district and immediately adjoining.

(The complainant objects to Interrogatory No. 6 and the answer thereto, upon the following grounds, to wit:

First. That the said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are, and each of them is, immaterial, and that the testimony tends in no manner to prove any issue in the case.)

A. It has made it unhealthy. It was always considered a very healthy district before that. The character of the diseases particularly are chills and fever, and fevers.

259 Q. 7. In seasons of more than average rain-fall in the watershed, what effect is produced upon the district?

(The complainant makes the same objection, and assigns the same grounds as to interrogatory No. 5.)

A. In a very wet season, the water is a great deal higher than ordinarily, and it can't run out into the river; it dams up, I think, three or four feet higher, and in seasons of average rain-fall, I think the natural drainage of the district is sufficient to fill the basin.

(No cross-examination.)

260 *Deposition of Wm. J. Clark.*

Examination-in-chief of William J. Clark.

By Mr. BELCHER:

Question 1. You are defendant in the case of Reclamation District No. 108 against William J. Clark?

Answer Yes, sir.

Q. 2. How long have you known the lands involved in that action?

A. I knew them since the 10th day of October, 1850; I knew most of the land in district 108 in Yolo county; I don't know all in Colusa county; I have been over them every year since I went there.

Q. 3. State what effect, if any, the works constructed in Reclamation District No. 108, the levee along the river and the damming up of the sloughs has produced upon your lands involved in this action, and upon the lands of Mr. Cook?

261

(The complainant objects to the interrogatory and the answer thereto, upon the following grounds, to wit:

First. That said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are and each of them is immaterial.

Third. That said interrogatory and the answer thereto are, and each of them is, incompetent and inadmissible in this, to wit, it is an attempt to contradict and impeach the order of the record of the Board of Supervisors of Yolo county, approving the petition asking for the formation of Reclamation District No. 108, made by said board on the 28th day of September, 1870, allowing the formation and establishment of said district, which order of approval establishing said district cannot be impeached or contradicted in this manner, nor in this suit, nor is it subject to any collateral attack.

262

Fourth. That said interrogatory and the answer thereto are, and each of them is, further incompetent and inadmissible in this, to wit: It is an attempt to contradict and impeach the original assessment made in said Reclamation District Number 108, and the conclusions, judgment, and acts of the Commissioners of Assessment who made said original assessment, and to contradict and impeach the assessment made subsequent to said original assessment, to wit, the assessment upon which a recovery is sought against the defendant in this suit, and the conclusions, judgment, and acts of the commissioners who made said last mentioned assessment, none of which can be attacked collaterally in this manner, nor at all.)

263 A. The water, since the reclamation, is dammed up higher by four feet than it was before.

Q. 4. What effect, if any, have these works of reclamation produced upon the health of the country to the south and west of this district, and along its borders?

(Complainant objects to interrogatory No. 4 and the answer thereto, upon the following grounds, to wit:

First. That the said interrogatory and the answer thereto are, and each of them is, irrelevant.

Second. That they are and each of them is immaterial, and that the testimony tends in no manner to prove any issue in the case.

A. The health of the country is a good deal poorer than it was before; I consider it very much poorer; I have really left

264 my home on account of my family's health; I consider the cause to be the stagnant water in the tules; since the levee was built there, in the winter the water comes from the mountains and lies along there and rots, and in the fore part of the spring or summer the fish in the water die, not having any way to get out, and it becomes almost unbearable for months, caused by the stench of these dead fish; I think it is becoming more unhealthy every year.

Q. 5. In seasons of more than average rain-fall, how will the height of the water in the district compare with the height of the water before any reclamation works were made?

(Complainant objects to interrogatory No. 5, and assigns the same grounds as to interrogatory No. 2.)

265 A. The water rises higher than it did before.

Q. 6. What effect upon the water in the river, during the season when the water is high, has the levee produced?

(The complainant makes the same objection and assigns the same grounds as to interrogatory No. 3.)

A. Well, sir, the water being stopped in Sycamore Slough, and what is called Wilkins slough, it raises the river so that the water goes so high above the banks that it is from three to four feet higher than it was before, sir, and stands so for a considerable time.

(No cross-examination.)

266 *Certificate of Examiner.*

I further certify that said depositions were, by agreement of counsel for the respective parties, taken down in short hand by ——— Kinsey, and by him transcribed into long hand, and that the reading of said depositions to said witnesses, and the signing thereof by them, respectively, were waived; and I have retained said depositions in my possession for the purpose of delivering the same with my own hands to the court for which they were taken.

And I do further certify that I am not attorney nor of counsel for either of the parties to this action, nor in any event interested in the event of this cause.

In testimony whereof, I have hereunto set my hand, this 19th day of January, A. D. 1880.

JOS. F. O'BEIRNE, *Examiner.*

Endorsed: Filed January 19th, 1880. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep'y cl'k.

267 *Opinion.*

In the Circuit Court of the United States of the Ninth Judicial Circuit in and for the District of California.

RECLAMATION DISTRICT No. 108 *vs.* GEORGE HAGAR. } No. 1867.

1. *Due Process of Law.*—Whenever, by the laws of the State, a tax or assessment is imposed upon the property for public uses, whether for the whole State or a limited portion of it, and those laws provide a mode of contesting the charge thus imposed by suit in the ordinary courts of the State with notice to the person, the judgment in such proceeding cannot be said to deprive the owner of his property without due process of law.

268 2. *Same.*—The statute of California authorizing the reclamation of swamp lands, and the assessment of the expenses upon the lands benefited, and collection thereof by a civil suit in the ordinary courts of the State to enforce the lien against the land does not violate that provision of the National Constitution, providing that no State shall "deprive any person of * * * property without due process of law."

3. *Unequal Assessments not Necessarily Void.*—The reclamation statute of California seems to require the assessment to be made proportionate to the benefits which will result from the work; but if not strictly so made, it violates no provision of the Constitution of the United States or of the State of California.

269 4. *State Statutes—Authoritative Construction.*—The construction by the highest court of a State constitution or statute, which does not trench upon any of the powers of the National Government, or upon any right protected by the Constitution of the United States, is authoritative and conclusive in the national courts.

5. *Impairing Obligation of Contract.*—The statute of California, providing for the reclamation of swamp lands, impairs no contract between the United States and the State of California, nor of the State of California and purchasers of swamp lands, nor any contracts of owners of lands held under Mexican grants or other patents from the United States, nor of any contract found in the charter or by-laws of Reclamation District No. 108.

270 6. *Coin Assessment—Obligation of Contract.*—Authorizing the assessment to be collected in coin, where the indebtedness of the reclamation district for reclaiming the land might be paid in other lawful money, does not impair the obligation of a contract.

7. *Statute of Limitations.*—The owner of the land is not in position to set up as a defense to an action to recover the assessment, the fact that a portion of the indebtedness of the reclamation district for

reclaiming the land payable out of the assessment when collected, is barred by the statute of limitations.

8. *Counsel Fee a Proper Charge.*—Counsel may be employed, in the sound discretion of the officers of the reclamation district, to aid the district attorney of the county in prosecuting actions
271 to collect the assessments, notwithstanding the fact that the statute makes it the duty of the district attorney to prosecute such actions, and the reasonable fees of counsel so employed are properly a part of the "incidental expenses," which the statute authorizes to be paid out of the fund raised by the assessment.

9. *Reclamation at Expense of Land.*—Under the constitution of California the Legislature has power to authorize the formation of reclamation districts for the reclamation of swamp lands at the expense of the lands reclaimed and benefited.

10. *Same.*—The Legislature also has power to include in such reclamation districts to be so reclaimed swamp lands derived under Mexican grants, as well as those derived through the State under the act of Congress granting to Arkansas and other States
272 the swamp lands situated within their limits.

11. *The Power to Reclaim Swamp Lands* is not derived from the Arkansas act, and there is no contract in that act, express or implied, on the part of the State, that it will not reclaim other swamp lands, or that it will limit the expense of reclaiming the swamp lands of the State to the proceeds of the sales of the lands derived under that act.

12. *The Swamp Lands Held under Mexican Grants*, as well as those derived under the Arkansas act, are included in the provisions of the act of 1868 and of the Political Code authorizing the reclamation of swamp lands.

A. C. Adams, F. E. Baker, and W. B. Treadwell, for
273 plaintiff. W. C. Belcher and J. S. Belcher, for defendant.

SAWYER, Circuit Judge:

The first point made against the validity of these proceedings, and elaborately argued, is disposed of by the Supreme Court of the United States in Davidson *vs.* New Orleans, 96 U. S., 97, in which it is held that, "whenever by the laws of a State or by State authority a tax, assessment, servitude, or other burden is imposed upon property for public uses, whether it be for the whole State or of some more limited portion of the community, and *those laws provided for a mode of confirming or contesting the charge thus imposed in the ordinary courts of justice*, with such notice to the person or such proceeding in regard to the property as is appropriate to the nature of the case, the judgment in such proceeding cannot be said to
274 deprive the owner of his property without due process of law, however obnoxious it may be to other objections. * * It is not possible to hold that a party has, without due process of law, been deprived of his property when, as regards the issues affecting it, he has, by the laws of the State, a fair trial in a court

of justice, according to the modes of proceeding applicable to such a case." With reference to that case the court further observes: "Before the assessment could be collected or become effectual the statute required that the tableau of assessments should be filed in the proper district court of the State; that personal service of notice, with reasonable time to object, should be served on all owners who were known and within reach of process, and an advertisement made as to those who were unknown or could not be found. This was complied with, and the party complaining then appeared
275 and had a full and fair hearing in the court of the first instance, and afterwards in the Supreme Court. *If this be not due process of law, then the words can have no definite meaning as used in the Constitution.*" (Id., 105.)

So in this cause no property can be taken from the party except upon a judgment after a full hearing in a suit to recover the amount of the assessment, in which the legality of all the proceedings is contested and adjudged. That is the very purpose of the present suit, and we are now engaged in ascertaining the validity or non-validity of the assessment in the regular course of due process of law. The assessment does not take the property; it is only taken in pursuance of the judgment after a full hearing. The case cited is conclusive on the point.

The second point relied on by the defense is, that the assessment was made, and the law authorized it to be made, without
276 regard to any known or just principle of apportionment or equality of burden or apportionment.

I do not understand it to be claimed that it was not made in accordance with the statutory provisions in section 33 and other sections; but it is claimed that the statute itself is unconstitutional and void on the grounds indicated. I am not prepared to say that the statute does not require the assessment to be so made as to have some just relation to the benefits resulting from the improvement. The provision is that the commissioners "shall jointly view and assess upon each and every acre to be reclaimed or benefited thereby a tax *proportionate* to the whole expense, and *to the benefit which will result from such works.*" (Sec. 33.)

This certainly seems to require an apportionment according to benefits. But suppose it does not require the apportionment
277 to be strictly in all particulars in accordance with the benefits, then this point presents a question of constitutional law arising under the State constitution, and the decisions of the supreme court of the State upon such questions are conclusive upon this court when they do not trench upon any of the rights protected by the Constitution of the United States. (Hawes *vs.* Contra Costa Water Company, 5 Saw., 287; Walker *vs.* State Harbor Com., 17 Wal., 650; Bailey *vs.* Maguire, 22 Id., 230; South Ottawa *vs.* Perkins, 4 Otto, 260; State R. R. Tax Cases, 2 Otto, 576; Fairfield *vs.* Gallatin Co., 1 Otto, 47.) In Davidson *vs.* New Orleans the Supreme Court says: "It is said that plaintiff's property had been previously

assessed for the same purpose and the assessment paid. If this be meant to deny the right of the State to tax or assess property twice for the same purpose, we know of no provision in the Federal
278 Constitution which forbids this, *or which forbids unequal taxation by the States.*" (6 Otto, 106.) The question, then, rests upon the State constitution as construed by the highest court of the State, and those decisions are against the defendant. This very point seems to me to be determined in Hagar *vs.* Supervisors of Yolo County, (arising under this same act,) 47 Cal., 234–5. (Burnett *vs.* Mayor of Sacramento, 12 Cal., 76; Emery *vs.* S. F. Gas Co., 28 Cal., 345, and subsequent cases affirming it, settle this question in this State.)

The next point relates to impairing the obligation of a contract. I am unable to find any contract, either between the United States and California, or the United States and her patentees or grantees, or between the State of California and purchasers from her or grantees of the United States, the obligation of whic his impaired by the law authorizing the assessment in question. Nor do I think there is any contract found in the charter of the reclamation
279 district, the obligation of which could be impaired, within the meaning of the Constitution, by reason of the fact that the assessment was levied in violation of the provisions of section 7 of the by-laws, which provides that "the trustees shall allow no indebtedness to accrue in excess of the amount of assessment levied." A similar question seems to have been raised in Davidson *vs.* New Orleans and overruled by the State court, which ruling was sustained by the Supreme Court of the United States. Says the latter court: "If the act under which the former assessment was made is relied on as a *contract against further assessments for the same purpose* we concur with the supreme court of Louisiana in being unable to discover such a contract." (6 Otto, 106.)

In case the first assessment proves insufficient to pay the expenses of a reclamation once inaugurated, the statute itself author-
280 izes a second assessment to be made to make up the deficiency; and the Supreme Court, in one of the cases arising under this act already cited, holds such second assessment under the act to be valid, notwithstanding the provision in the by-laws now under consideration.

In my judgment, the authorizing the assessments to be collected in gold coin did not impair the obligation of any contract. The States are authorized to require taxes and assessments to be collected in coin, if deemed expedient. (Lane County *vs.* Oregon, 7 Wal., 73.) Gold coin is lawful money of the country, and is legal tender in payment of debts. The statute itself makes no distinction between it and other lawful money also made a legal tender.

I need not inquire whether Reclamation District No. 108 could successfully set up the statute of limitations to any portion of its indebtedness. The defendant is not in a position to raise
281 the question as a defense to this action. The statute might

run against its patient creditors, while the reclamation district is earnestly and vigorously pressing its suits to collect the assessments in order to enable it to pay its debts.

The expenses of collecting the assessments, among which are proper attorney and counsel fees in prosecuting suits for their recovery, are, in my judgment, proper "incidental expenses," within the meaning of the statute, to be paid out of the funds raised; and the fact that the statute makes it the duty of district attorneys to prosecute such actions, does not prevent the employment of other counsel, in the sound discretion of the officers of the district, in proper cases to aid in the litigation. (Smith *vs.* Sacramento, 13 Cal., 532; Horblower *vs.* Duden, 35 Cal., 668–9.) This identical point is said in complainant's brief, and not denied by defend-
282 ant, to have been decided by the supreme court of California, December 29, 1879, in three cases: Reclamation District No. 108 *vs.* Hickock, Same *vs.* Howell, and Same *vs.* Howell *et al.* If so, the determination is authoritative.

The supreme court of California have settled the questions that, under the constitution of California, the Legislature has power to authorize the formation of districts for the reclamation of swamp lands within the State, at the expense of the lands so reclaimed. (Hagar *vs.* Sup. Yolo Co., 47 Cal., 223; People *vs.* Hagar, 52 Cal., 171; People *vs.* Reclamation District No. 108, 53 Cal., 348; Dean *vs.* Davis, 51 Cal., 407.) This being established, I have no doubt of its authority to include swamp lands, which are derived under Spanish grants, or under any other patent from the United States, as well as those derived through the State under the Arkansas act, granting the swamp lands to the several States in which
283 they are situated.

The power to reclaim at the expense of the lands no more depends upon the source from or channel through which the title came, than the power to authorize the improvement of the streets of a city at the expense of the adjoining property. There is no contract that lands patented by the United States upon grants to purchasers, or derived from Mexican grants and protected by the treaty, shall be exempt from the burdens imposed upon their property under the police or the taxing powers of the State. The State does not derive its power to reclaim swamp lands from the Arkansas act, nor does it contract by that act not to reclaim other swamp lands, or to limit the expense of reclaiming to the proceeds of sales of those particular lands. Its power to reclaim is wholly independent of the provisions of that act. By accepting the grant it
284 may have imposed upon itself the duty to reclaim the lands granted, but it thereby in no way limited its power derived from other sources, to reclaim those or any other lands. The several swamp land cases already cited, arising under the act in question, also decided that the Legislature has power to include lands held under Mexican grants in reclamation districts.

The point, that conceding the power of the Legislature to include

the lands of Hagar, held by him under a Mexican grant, in a district formed for the purpose of reclamation, still it did not in fact so include them by the act of 1868, or the provisions of the Political Code in question, is distinctly decided against the defendant by the supreme court of the State in Hagar *vs.* Sup. Yolo Co., 47 Cal., 223; People *vs.* Hagar, 52 Cal., 172. This being a construction of a statute of California by the highest court of the State is conclusive upon this court.

285 The last point, that the assessment is void, because not made according to any rule of benefits, etc., has already been considered under another head, and it is disposed of by the authorities already cited. (See particularly [Hagar] *vs.* Sup. Yolo Co., 47 Cal., 233–4; People *vs.* Hagar, 52 Cal., 185; Davidson *vs.* New Orleans, 6 Otto, 107.)

No other point appears to me to require special notice.

All the questions presented in this case upon which there ever could have been grounds for reasonable doubt, are, in my judgment, authoritatively settled either by decisions of the United States Supreme Court, or the supreme court of the State of California.

There must be a decree for complainant in pursuance of the prayer of the bill, and it is so ordered.

Similar decree in the three other cases.

November 8, 1880.

286 Endorsed: Read in open court and filed Nov. 8th, 1880. L. S. B. Sawyer, clerk; by J. F. O'Beirne.

287 *Order Granting an Appeal.*

At a stated term, to wit, the November term, A. D. 1880–1, of the circuit court of the United States of America of the ninth judicial circuit in and for the district of California, held at the court room in the city and county of San Francisco, on Saturday, the 11th day of December, in the year of our Lord one thousand eight hundred and eighty.

Present: The Honorable Lorenzo Sawyer, circuit judge.

RECLAMATION DISTRICT No. 108
vs.
GEORGE HAGAR. } No. 108.

And now, at this day, on motion of W. C. Belcher, Esq., solicitor for the defendant herein, it is ordered that an appeal from the decision and decree in the above-entitled cause filed and

288 entered on the 8th day of November, A. D. 1880, being a day in the July term, A. D. 1880, of said court, to the Supreme Court of the United States be, and the same is hereby, allowed, and that a certified transcript of the pleadings, evidence, stipulations, and proceedings herein be forthwith transmitted to the Supreme Court of the United States.

It is further ordered that the amount of the bond on appeal be fixed at the sum of four thousand two hundred and sixty-four dollars.

289 *Bond on Appeal.*

In the Supreme Court of the United States.

GEORGE HAGAR, Appellant,
vs.
RECLAMATION DISTRICT No. 108, Appellee. } No. 1819.

Know all men by these presents, that we, Jerome Lincoln and Calvin Page, are held and firmly bound unto Reclamation District No. 108, the above-named appellee, in the sum of four thousand two hundred sixty-four dollars, gold coin of the United States of America, to be paid to the said Reclamation District No. 108, or its successor or successors; to which payment, well and truly to be made, we bind ourselves and each of us jointly, and each of
290–1 our heirs, executors, and administrators, firmly by these presents.

In witness whereof, we have hereunto set our hands and affixed our seals, this 11th day of December, A. D. 1880.

The condition of the above obligation is such, that whereas the above-named George Hagar has taken an appeal to the Supreme Court of the United States of America to reverse the decree rendered by the circuit court of the United States of America of the ninth judicial circuit in and for the district of California, in the suit entitled Reclamation District No. 108 *versus* George Hagar (No. 1819), which said decree was filed and entered of record in said circuit court on the 9th day of December, A. D. 1880.

Now, therefore, if the above-named George Hagar shall prosecute his said appeal to effect, and answer all costs and damages,
292 if he shall fail to make good his plea, then this obligation shall be void, otherwise to remain in full force and effect.

JEROME LINCOLN.
CALVIN PAIGE.

Signed, sealed, and delivered in presence of—
L. S. B. SAWYER.

UNITED STATES OF AMERICA, } *ss:*
District of California, }

Jerome Lincoln and Calvin Paige, being duly sworn, each for himself, says that he is a resident freeholder within the district aforesaid, and that he is worth the sum of four thousand two hundred sixty-four dollars, exclusive of property exempt from execution and over and above all his just debts and liabilities.

JEROME LINCOLN,
CALVIN PAIGE.

Subscribed and sworn to before me, this 11th day of December, A. D. 1880.

L. S. B. SAWYER,
Com'r U. S. Circuit Court, Dist. Cal.

293 [Endorsed.]

The form of the within bond, and the sufficiency of the sureties therein, are hereby approved.

(Signed) LORENZO SAWYER,
U. S. Circuit Judge, Ninth Circuit.

Filed December 11, 1880. L. S. B. Sawyer, clerk.

294 UNITED STATES OF AMERICA, } *ss:*
District of California, }

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States of America of the ninth judicial circuit in and for the district of California, do hereby certify that the foregoing two hundred ninety-three written pages, numbered from 1 to 293 inclusive, are a full, true, and correct copy of the record and of all proceedings in the therein entitled cause, and that the same constitute the transcript on appeal to the Supreme Court of the United States therein.

Witness my hand and seal of said circuit court, this 10th day of May, A. D. 1881.

[SEAL.] L. S. B. SAWYER, *Clerk.*

295 UNITED STATES OF AMERICA, *ss:*

To Reclamation District No. 108, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States of America, to be held at the city of Washington, District of Columbia, on the second Monday of October, A. D. 1881, pursuant to an order granting an appeal to the said Supreme Court, made and entered by the circuit court of the United States for the ninth judicial circuit in and for the district of California, in the cause entitled Reclamation District No. 108, complainant, *versus* George Hagar, defendant, (number 1819,) to show cause, if any there be, why the decree in the said order men-
296 tioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this eleventh day of January, A. D. 1881, and of the Independence of the United States the 105th.

[SEAL.] LORENZO SAWYER,
U. S. Circuit Judge, Ninth District.

297 Endorsement: 1819. United States Supreme Court. George Hagar, appellant, *vs.* Reclamation District No. 108,

appellee. Citation. Due service of a copy of the within citation is hereby acknowledged this 13 day of January, A. D. 1881. Jackson Hatch, A. C. Adams, solicitors for appellee and complainant. Filed January 14th, 1881. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep'y cl'k.

Endorsed on cover: California C. C. U. S. No. 270. George Hagar, appellant, *vs.* Reclamation District No. 108. Filed 2d August, 1881.